

1 DANTE T. MCKAY
2 UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF GEORGIA
3 ATLANTA DIVISION

4 UNITED STATES OF AMERICA,) CIVIL ACTION
5 Plaintiff,) NO. 1:16-cv-03088-ELR
6)
7 vs.)
8)
9 STATE OF GEORGIA,)
10)
11 Defendants.)
12)
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VIDEO DEPOSITION OF

DANTE T. MCKAY

Thursday, January 27, 2022, 10:07 a.m., EST

HELD AT:

Robbins Alloy Belinfante Littlefield LLC
500 14th Street, N.W.
Atlanta, Georgia 30318

WANDA L. ROBINSON, CRR, CCR, No. B-1973
Certified Shorthand Reporter/Notary Public

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

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DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

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1 ALSO PRESENT VIA ZOOM:

2 U.S. ATTORNEY'S OFFICE:

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4 RENEE WOHLENHAUSE, ESQUIRE

5 KELLY GARDNER, ESQUIRE

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11 MICHELLE TUCKER, ESQUIRE

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20 ALSO PRESENT:

21 BRANDON BRANTLEY, Videographer

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DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

4

1 INDEX OF EXAMINATIONS
2

3 DANTE T. MCKAY

4 By Mr. Holkins

Page 9

5

6 INDEX OF EXHIBITS

7 PLAINTIFF'S

9 NO.	DESCRIPTION	PAGE
10 Exhibit 1	Amended Notice of Deposition of Dante J. McKay	11
11 Exhibit 2	Job Listing - Director Of Children, Young Adults and Families Job Posting Dec 22, 2015 GA00000022-GA00000023	17
12 Exhibit 3	Increase Review/Request, Dante McKay 4/27/20 - GA00249775-GA00249785	21
13 Exhibit 4	DBHDD Organizational Struture GEORGIA 000009 - GEORGIA 000016	25
14 Exhibit 5	Budget Tracking Summary, Updated 7.10.2020 - DBHDD Estimated Budget Reduction by Subprogram - FY2020 Base Budget - GA00051873	38
15 Exhibit 6	OCYF Book of Business Last Updated - 8/24/20 GA1748346	59
16 Exhibit 7	OCYF Staff Plan Draft 5/12/20 GA00250329 - GA00250332	82
17 Exhibit 8	February 12, 2021 Robbins Letter From Alexa Ross To Hamilton/Lill	84

DANTE T. MCKAY
 UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

5

1 INDEX OF EXHIBITS (Continued)

2 PLAINTIFF'S

3 NO.	DESCRIPTION	PAGE
4 Exhibit 9	Georgia DBHDD Provider Manual For Community Behavioral Health Providers For The DBHDD - Fiscal Year 2022 Quarter 1 - Effective Dates: 7/2021 to 9/30/21	98
7 Exhibit 10	Georgia Uniform Application FY 2020/2021 Community Mental Health Services Block Grant	107
9 Exhibit 11	5/14/2018 Email Chain From Dante McKay To Wendy Tiegreen GA00006288 - GA00006290	115
11 Exhibit 12	FAQ For Agency Leadership GA00653209 - GA00653210	139
12 Exhibit 13	6/27/2016 Email Chain From Dante McKay To Pearson, Dempsey GA00582723 - GA00582726	145
15 Exhibit 14	3/1/2019 Email Chain From Deana Farmer To Dante McKay GA00636018 - GA00636019	150
17 Exhibit 15	Active Provider By Service The Georgia Collaborative ASO GA00023273 - GA00023313	158
19 Exhibit 16	Provider Report Between 01/01/2017 and 06/30/2018 The Georgia Collaborative ASO GA00023586 - GA00023599	165
21 Exhibit 17	2/5/2019 Email Chain From Wendy Farmer To John Quesenberry GA00157048 - GA00157050	169
23 Exhibit 18	Document Entitled "Measurement Areas Draft, SOC State Plan Areas" GA00637089	174

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
6

1 INDEX OF EXHIBITS (Continued)

2 PLAINTIFF'S

3 NO.	4 DESCRIPTION	5 PAGE
6 Exhibit 19	7 10/19/2016 Email Chain From Dante 8 McKay To Recipients 9 GA00174388 - GA00174389	10 176
11 Exhibit 20	12 Georgia Apex Program (Apex) 13 GA00130192 - GA00130195	14 181
15 Exhibit 21	16 State of Georgia DBHDD Contract 17 GA01472050 - GA01472077	18 184
19 Exhibit 22	20 The Georgia Apex Program Annual 21 Evaluation Results 22 July 2019 - June 2020 23 GA01749707	24 191
25 Exhibit 23	26 Apex Year End Survey 2019-2020 27 GA00655695 - GA00655701	28 198
29 Exhibit 24	30 Apex COE/DBHDD Updates: 31 January 17, 2020 32 GA00656683 - GA00656686	33 200
34 Exhibit 25	35 2/12/2019 Email Chain From Garry 36 McGiboney To Judy Fitzgerald 37 GA00003148	38 203
39 Exhibit 26	40 Apex: COE/DBHDD Team Meeting 6.9.20 41 GA00672136	42 206
43 Exhibit 27	44 8/20/2020 Email Chain From Dante 45 McKay To Jones/Boatwright 46 GA00150195 - GA00150196	47 211
48 Exhibit 28	49 Document Entitled: "Question: 40% 50 Productivity - How will this be 51 Implemented? How much does each Apex 52 contract receive in total?" 53 GA00250659	54 213
55 Exhibit 29	56 5/27/2016 Email Chain From Dante 57 McKay To Nakeba Rahming 58 GA00581815 - GA00581817	59 217

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

7

1 INDEX OF EXHIBITS (Continued)

2 PLAINTIFF'S

3 NO.	4 DESCRIPTION	5 PAGE
Exhibit 30	DBHDD PowerPoints GA01749504	225
Exhibit 31	1/29/2020 Email Chain From Danielle Jones To Dante McKay GA00129622 - GA00129625	226

6

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**DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA**

January 27, 2022
8

1 | -----

2 THE VIDEOGRAPHER: This will be the video
3 deposition of Dante J. McKay, being taken in
4 the matter of United States of America versus
5 State of Georgia.

6 | Today's date is January 27, 2022.

7 The time on the record is 10:07 a.m.

8 My name is Brandon Brantley. I'm the
9 videographer.

10 Counsel, please introduce yourselves for
11 the record, after which the court reporter will
12 swear in the witness.

13 MR. HOLKINS: Patrick Holkins for the
14 United States.

15 MS. COHEN: Frances Cohen for the United
16 States.

17 MS. HUGHES: Aileen Bell Hughes with the
18 U.S. Attorney's Office and representing the
19 United States.

20 MS. HERNANDEZ: Danielle Hernandez, State
21 of Georgia.

22 MR. PICO PRATS: Javier Pico, State of
23 Georgia.

24 MR. HOLKINS: Could the folks on Zoom
25 introduce themselves, please.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
9

1 MS. WOHLENHAUS: Renee Wohlenhaus for the
2 United States.

3 MS. GARDNER: Kelly Gardner for the United
4 States.

5 MS. HAMILTON: Andrea Hamilton for the
6 United States.

7 MS. LILL: Victoria Lill for the United
8 States.

9 MS. TAYLOE: Laura Tayloe for the United
10 States.

11 MS. TUCKER: Michelle Tucker for the
12 United States.

13 MS. CHEVRIER: Claire Chevrier for the
14 United States.

15 MS. SOLLARS: Lauren Sollars for the
16 United States.

17 - - - - -

18 DANTE T. MCKAY,
19 being duly sworn, was examined and testified as
20 follows:

21 EXAMINATION

22 BY MR. HOLKINS:

23 Q Good morning, Mr. McKay. How are you?

24 A Doing well. Good morning.

25 Q We appreciate you coming today.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

10

1 For the record, could you state your name,
2 please.

3 A Dante T., for Tremaine, McKay, not J.

4 Q Thank you for that clarification.

5 MR. HOLKINS: I'll note for the record
6 this is the deposition of Dante McKay in the
7 lawsuit entitled United States v. Georgia, Case
8 No. 1:16-CV-03088.

9 BY MR. HOLKINS:

10 Q I'd like to just walk through some
11 instructions and kind of a roadmap for the day
12 before we get started.

13 We've got a lot of work to do, a lot of
14 ground to cover, but I'm not interested in making
15 this unnecessarily difficult or uncomfortable. So
16 toward that end, we'll be taking breaks at least
17 every 90 minutes.

18 If you would like to take a break before
19 that time, just let me know.

20 MR. HOLKINS: The same goes for counsel.

21 Q The one request I have, though, is if a
22 question is pending, that you answer the question
23 before we take a break. Is that all right?

24 A Yes.

25 Q I'll note that the deposition is being

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
11

1 recorded, both by transcription and by video.

2 For clarity of the record, I ask that you
3 speak at a measured pace, clearly. It will be also
4 helpful if you could speak up in general. I'll note
5 that I have a hearing loss, as does my co-counsel
6 Fran Cohen. So we greatly appreciate your
7 assistance with that.

8 In general, when responding, it would be
9 helpful for the record if you could say yes or no,
10 versus uh-huh or other responses that are not words.

11 Does that make sense?

12 A Yes.

13 Q I ask that you in general let me finish
14 questions before you start answers. Again, just so
15 the record is clear. Is that okay?

16 A Yes.

17 Q At times your counsel may have objections
18 to questions that I ask. We ask that you answer
19 those questions even if they are objected to, unless
20 you're instructed not to answer.

21 Does that make sense?

22 A Yeah.

23 (WHEREUPON, Plaintiff's Exhibit-1 was
24 marked for identification.)

25

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
12

1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what is
3 marked Exhibit 1. Please take a moment to review
4 the document and let me know when you've finished.

5 (Witness reviews exhibit.)

6 A Okay.

7 Q I'll represent for the record that this is
8 the notice we served on the State for your
9 deposition in this matter.

10 Mr. McKay, have you seen this document
11 before?

12 A Yes.

13 Q And who showed you this document?

14 A Outside counsel.

15 Q When did that happen?

16 A Last week, I believe.

17 Q And before you received a copy of this
18 notice last week, had you heard about this case?

19 A Yes.

20 Q And when did you first hear or learn about
21 this case?

22 A I don't recall exactly. It's been a
23 couple of years.

24 Q Is it something that you learned about
25 after joining DBHDD in your current role?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

13

1 A Yes.

2 Q And I'll just -- we're going to go through
3 some acronyms but I'll note now for the record that
4 DBHDD is the Department of Behavioral Health and
5 Developmental Disabilities. Is that correct?

6 A Yes.

7 Q Mr. McKay, what is your understanding of
8 what this case is about?

9 A My understanding about this case is that
10 the Department of Justice has brought a lawsuit
11 against the State of Georgia because of thinking
12 that the GNETS program or system is, I guess,
13 against the law.

14 Q Thank you.

15 Mr. McKay, do you understand your
16 testimony today is under oath?

17 A Yes.

18 Q And do you understand that being under
19 oath means you have an obligation to tell the truth?

20 A Yes.

21 Q Is there any reason at all why you cannot
22 testify accurately and truthfully today?

23 A No.

24 Q Are you taking any medication or other
25 substance that would interfere with your ability to

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
14

1 answer my questions fully and truthfully today?

2 A No.

3 Q Have you ever been deposed before?

4 A No.

5 Q Have you ever been a plaintiff or
6 defendant in a lawsuit?

7 A No.

8 Q So I'm going to be using some acronyms
9 throughout the deposition, and I just want to run
10 through them to make sure we're on the same page
11 about what they mean. Is that all right?

12 A Yes.

13 Q I gave the first one already, which is
14 DBHDD, and when I use that, that will be referring
15 to the Georgia Department of Behavioral Health and
16 Developmental Disabilities.

17 A Yes.

18 Q And when I refer to "DCH," do you
19 understand I am referring to the Georgia Department
20 of Community Health?

21 A Yes.

22 Q And likewise when I refer to "Georgia
23 DOE," will you understand I'm referring to the
24 Georgia Department of Education?

25 A Yes.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
15

1 Q And when I use the term "CMO," will you
2 understand that I'm referring to Care Management
3 Organizations?

4 A Yes.

5 Q When I use the term "general education
6 setting," that will mean a public school in Georgia
7 where children with SED -- excuse me. A public
8 school in Georgia where children with serious
9 emotional disturbances and other behavioral health
10 conditions receive instruction and services
11 alongside children who do not have disabilities.
12 Does that make sense?

13 A Can you repeat that?

14 Q When I refer to "general education
15 settings," what I mean is a public school in Georgia
16 where children with behavioral health conditions
17 receive instruction and services alongside children
18 who do not have disabilities. Does that make sense?

19 A Yes.

20 Q When I refer to "GNETS," will you
21 understand that I'm referring to Georgia Network for
22 Education -- excuse me -- Educational and
23 Therapeutic Support?

24 A Yes.

25 Q And then, finally, I'll be using the term

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

16

1 "OCYF," which means Office of Children, Young Adults
2 and Families, correct?

3 A Correct.

4 Q You can go ahead and set aside that first
5 document. Thank you.

6 I'd like to ask just a few questions about
7 your educational background.

8 Do you have a college degree, Mr. McKay?

9 A Yes.

10 Q From where?

11 A From Clark Atlanta University.

12 Q When did you obtain that degree?

13 A In May 1997.

14 Q In what field?

15 A Public relations.

16 Q And do you have a professional degree?

17 A Yes. I have a Master's in public
18 administration from Baruch College, City University
19 of New York, and a juris doctor from Southern
20 University Law Center.

21 Q When did you obtain your JD?

22 A In May 2007.

23 Q Are you currently licensed to practice
24 law?

25 A No.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
17

1 Q Mr. McKay, you're currently employed by
2 the State of Georgia, correct?

3 A Correct.

4 Q And what is your current job title?

5 A Director, Office of Children, Young Adults
6 and Families, in the Behavioral Health Division.

7 Q In the DBHDD, correct?

8 A Correct.

9 Q And when did you assume that position?

10 A February 16, 2016.

11 (WHEREUPON, Plaintiff's Exhibit-2 was
12 marked for identification.)

13 BY MR. HOLKINS:

14 Q Mr. McKay, you've just been handed what's
15 been marked Exhibit 2. Please take a minute to
16 review the document and let me know when you're
17 finished.

18 (Witness reviews exhibit.)

19 A Yes, I've reviewed the document.

20 Q Thank you.

21 MR. HOLKINS: I'll note for the record
22 that this document was produced by the State to
23 the United States in this matter.

24 The Bates No. is GA00000022.

25 BY MR. HOLKINS:

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
18

1 Q I'll represent that this document is a job
2 listing posted December 22nd, 2015, for the position
3 of Director, Children, Young Adults and Families at
4 DBHDD.

5 Mr. McKay, have you seen this document
6 before?

7 A Yes.

8 Q Was this the posting that you responded to
9 that led to you assuming your current position?

10 A I believe so, yes.

11 Q You can set this one aside. Thank you.

12 We'll talk in more depth about your
13 current position, but I first want to go backwards
14 for a little bit and get a sense of what positions
15 you held prior to your current role.

16 And so I'll ask first, have you been
17 employed with the State of Georgia in any other
18 capacity?

19 A No.

20 Q And just prior to joining DBHDD in your
21 current role, where were you working?

22 A I was a state director for Enroll America.

23 Q What is Enroll America?

24 A Enroll America was a national nonprofit
25 with a dozen or so offices around the country, that

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
19

1 worked to provide public education around the
2 Affordable Care Act.

3 Q I'm sorry -- state director, got it.
4 Thank you.

5 How long were you in that role in enroll
6 America?

7 A I believe I joined in 2013. August of
8 2013.

9 Q And you were in that role until you became
10 a director of OCYF, correct?

11 A Yes. That was -- Enroll America was a
12 time-limited endeavor. It was related to the
13 roll-out of the Affordable Care Act. So it was
14 always designed to sunset.

15 I closed the office in anticipation that
16 -- I started looking for additional employment in
17 anticipation that we were wrapping up our work, and
18 so my tenure with Enroll America ended the week
19 prior to when I started with the State.

20 Q And could you briefly describe what your
21 responsibilities were in your position at Enroll
22 America?

23 A I managed a statewide team that provided
24 public education about what the Affordable Care Act
25 was, qualifications, how to enroll in coverage if

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
20

1 interested. That was it pretty much.

2 Q I'd like to go back just once more to the
3 job that you may have had before Enroll America.
4 Did you have a position outside of that organization
5 before you joined Enroll America?

6 A Yes. Immediately prior to Enroll America,
7 I was the health policy director for Voices for
8 Georgia's Children, a statewide advocacy
9 organization based here in Georgia.

10 Q Could you describe the work that Voices
11 for Georgia's Children does?

12 A Public education outreach, advocacy, focus
13 on increasing access to services for children,
14 families. Attended a lot of legislative meetings
15 and agency meetings, board meetings.

16 Provided things like public comments,
17 advocated for or against particular bills, issued
18 research reports.

19 Q What drew you to your current position?

20 A It was open at the time. I was looking at
21 the time. I had the requisite educational
22 background and experience. I applied and I got the
23 job.

24 (WHEREUPON, Plaintiff's Exhibit-3 was
25 marked for identification.)

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
21

1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what's
3 been marked Exhibit 3. Please take a moment just to
4 familiarize yourself or refamiliarize yourself with
5 the document. You don't need to read every word but
6 just let me know once you've finished.

7 (Witness reviews exhibit.)

8 A I've reviewed the document.

9 Q Thank you.

10 MR. HOLKINS: I'll note for the record
11 that this document was produced by the State to
12 the United States in this matter.

13 The Bates number is GA00249775.

14 BY MR. HOLKINS:

15 Q At the top of the document is a text
16 Increase Review/Request, Dante McKay, 4/7 -- excuse
17 me -- 4/27/20.

18 Mr. McKay, is it correct you submitted
19 this document in April of 2020 in support of a
20 request for a personal salary increase?

21 A I don't remember the exact date, but that
22 sounds about right, yes.

23 Q And this document outlines your activities
24 and responsibilities from February 2016 to the date
25 of the request, correct?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
22

1 A Correct.
2 Q Could you flip to Pages 10 and 11 of the
3 document.

4 I direct your attention to the section
5 titled, "Job Description (from 2015/2016)."

6 Do you see where I am?

7 A Yes.

8 Q Is this job description for your position
9 still accurate?

10 Have there been any changes?

11 A The second bullet no longer applies.

12 Q And the second bullet, just for clarity,
13 is "Develops annual strategic plan for C&A community
14 health services delivery system." Is that correct?

15 A That's correct.

16 Q What does C&A stand for?

17 A Child and adolescent.

18 I do not produce an annual strategic plan.

19 Q When did that stop?

20 A I have not done that during my tenure.

21 Q Is there another staff member at DBHDD who
22 is responsible for developing annual strategic plans
23 for child and adolescent community health services?

24 A Not that I'm aware of.

25 Q I'd like to ask you some questions about

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
23

1 some of the other bullets on this job description,
2 just to better understand your duties and
3 responsibilities.

4 A Well, there are a couple of others that
5 also --

6 Q Please, go ahead.

7 A Okay. The bullet that refers to Director
8 of Federal Grants and Suicide Prevention, those have
9 been modified as well, as the division structure has
10 changed, and that office was combined with a couple
11 of other offices.

12 And so I'm not remembering the official
13 title now, but it's no longer the Federal Grants for
14 Suicide Prevention Office.

15 Q Okay.

16 A I think it's Office of Behavioral Health
17 Promotion and Federal Grants Initiatives.

18 Q When did that change occur?

19 A I don't remember exactly but over time,
20 over the last three years or so.

21 Q Any other changes?

22 A I think there's one more.

23 The second-to-last bullet, I do not
24 participate in a CYF quality committee.

25 Q This is on Page 11, correct?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
24

1 A Correct.

2 Q Could you briefly describe what the CFY
3 Quality Committee is?

4 A I cannot. I do not know what that is.

5 Q Do you know if it exists?

6 A It does not exist, to my knowledge.

7 There is a meeting titled, "Joint
8 Clinical," that the Division holds, that I or my
9 team members participate in, and in that meeting we
10 review quality matters, but there is no CYF
11 standalone quality committee.

12 Q So just to make sure I understand, at
13 those Joint Clinical meetings would you review poor
14 performing providers, specifically within the
15 context of children and adolescent services?

16 A The performance of a provider may come up
17 during the course of discussing a particular outcome
18 or challenges with services. It's more of a
19 clinical case staffing, broadly, not necessarily
20 focused on if a provider is performing well, average
21 or below average.

22 Q Do you participate in or conduct any
23 regular assessment of performance for C&A providers?

24 A I have and my team has evaluation tools
25 that we review at regular intervals on an aggregate

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
25

1 level, but there are offices specifically in the
2 Division that review quality and compliance and
3 those sorts of things.

4 My review is more from a programmatic
5 aspect.

6 Q Could you identify the offices within
7 DBHDD that would be responsible for reviewing
8 quality and compliance?

9 A I don't, I don't recall the exact name.
10 We have gone through a bit of a restructure over the
11 last couple of years or so.

12 That office formerly set in a different
13 division at DBHDD, but I think that division has
14 been absorbed into the other divisions within the
15 department. But we just generally refer to it as
16 compliance.

17 Q Do you have a specific staff member in
18 that compliance area that you would interact with?

19 A Not a specific staff member, no.

20 Q So I just for a second would like to put
21 this document aside and show you another one, but
22 we're going to return to this document.

23 A Okay.

24 (WHEREUPON, Plaintiff's Exhibit-4 was
25 marked for identification.)

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
26

1 BY MR. HOLKINS:

2 Q Mr. McKay, you've been handed what's been
3 marked Exhibit 4. Please take a moment to
4 familiarize yourself with the document.

5 (Witness reviews exhibit.)

6 A I've reviewed the document.

7 Q Thank you.

8 MR. HOLKINS: I'll note for the record
9 that this document was produced by the State to
10 the United States in this matter.

11 The Bates number is Georgia000009.

12 MS. COHEN: Is this Exhibit 4, Patrick?

13 MR. HOLKINS: Yes, this is Exhibit 4.

14 MS. COHEN: Thank you.

15 BY MR. HOLKINS:

16 Q So, Mr. McKay, this document appears to be
17 DBHDD's organizational structure. Is that accurate?

18 A I've seen many versions of this over the
19 -- during my tenure at the department, and looking
20 at this I do recognize many of the names, but it
21 appears to be dated.

22 Q Could you identify the ways in which it's
23 dated?

24 A It's dated in terms of the structure has
25 changed and the representatives reflected here have

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
27

1 also changed.

2 MR. HOLKINS: So I'll just note for
3 counsel that I believe this is the most current
4 version of the org chart that we have. So
5 we'll be asking for an updated version of the
6 org chart.

7 BY MR. HOLKINS:

8 Q Could you flip to Page 4 of the document.
9 And this is the page with Monica Johnson at the top.
10 Do you see that?

11 A Yes.

12 Q Have there been any changes either to the
13 structure or the personnel of the org chart for this
14 page?

15 A Yes.

16 Q What are they?

17 A There is an assistant director for the
18 division, Adrian Johnson. So Monica is the
19 director. Adrian is the assistant director.

20 He also maintains his director of field
21 operations responsibility.

22 Some of the positions that reported
23 directly to Monica here have gone over Adrian. I
24 don't know exactly all of them, but one of those --
25 well, I strike that.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
28

1 I was going to say one of those would be
2 the Office of Crisis Coordination, but I think that
3 has gone back to Monica.

4 Debbie Atkins is no longer in that role.

5 Dawn Peel, who is referenced here for
6 Region 2, has now moved over to the Office of Crisis
7 Coordination.

8 Q And is Dawn Peel in the role that Debbie
9 Atkins was in previously?

10 A Correct.

11 Q Who is now in Dawn Peel's role?

12 A That role is vacant, to my knowledge.

13 Q Do you still report directly to Monica
14 Johnson?

15 A Yes, I do.

16 Jill Mays -- so this is the office that I
17 referenced earlier that was consolidated with the
18 Office of Behavioral Health Prevention.

19 So Travis Tretwell retired. Jill Mays is
20 now director of both of those offices, refigured,
21 with a different title.

22 Q Thank you very much.

23 A Deaf services does have a full-time
24 director now. And housing, there's a housing --
25 Office of Supportive Housing.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
29

1 Q And who is in that role?

2 A The office -- which one?

3 Q I'm sorry. I think you mentioned there is
4 a new Office of Supportive Housing; is that correct?

5 A Yes. The director is Maxwell Rupersberg.

6 MS. COHEN: I'm sorry, I'm having trouble
7 hearing. I am a little hard of hearing and
8 you're wearing a mask.

9 If you could speak up, I appreciate it.

10 THE WITNESS: Okay.

11 Q Thank you.

12 A Should I repeat the last statement?

13 Q That would be great.

14 A There is an Office of Supportive Housing.
15 The director is Maxwell Rupersberg.

16 And the Office of Deaf Services is no
17 longer vacant.

18 Q So I'd like to skip ahead a few pages to
19 the Division of Performance Management and Quality
20 Improvement Organization.

21 Do you see that?

22 A Yes.

23 MR. HOLKINS: And just for the record,
24 this is Georgia 000015.

25 BY MR. HOLKINS:

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
30

1 Q Have there been any changes to this page?

2 A Yes. There has been some consolidation of
3 divisions.

4 There was also a reduction in force the
5 summer of 2020, and most of the department has
6 worked remote since the pandemic.

7 So with all of that change, I'm uncertain
8 if all of these people are still employed. I do
9 know, I believe, that Lynn Copeland has retired from
10 that position.

11 Q Do you know if Melissa Sperbeck is still
12 in her role as director of the Division of
13 Performance Management and Quality Improvement?

14 A She's the director of the new division, of
15 the title that I don't know. But --

16 Q If you flip -- sorry. Go ahead.

17 A But I think she retained the
18 responsibility -- many of the responsibilities for
19 this particular role.

20 Q Are you able to describe what Ms.
21 Sperbeck's responsibilities are in her current role?

22 A No, I'm not.

23 Q If you could flip to the last page. This
24 identifies the Division of Accountability and
25 Compliance Organization.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

31

1 A Yes, I have it.

2 Q Are you aware of any change to this page?

3 A Yes, I am.

4 Q What are they?

5 A Robert Dorr retired, and many of these
6 functions were absorbed in other areas within the
7 department.

8 Q Are you able to describe broadly what the
9 Division of Accountability and Compliance
10 Organization did before this restructuring?

11 A This is where the -- when you asked the
12 question about, I guess, performance, evaluating
13 performance of providers, that happened in this
14 division.

15 Two people that I may interface with when
16 I broadly referred to compliance would be Terri
17 Kight and Jennifer Rybak, and Kenneth Ward --
18 whenever there is a corrective action plan issued
19 for a particular provider, based upon some analysis,
20 when I have been copied Kenneth Ward has been the
21 sender of those corrective action plans, or CAPs.

22 Q Does Mr. Ward assess whether the
23 corrective action plan has been implemented
24 appropriately, or is that someone else's job?

25 A I do not know the answer to that.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
32

1 Kenneth Ward now reports directly to my
2 director, Monica Johnson.

3 Q I believe you said that Robert Dorr has
4 retired; is that correct?

5 A Yes, that's correct.

6 Q And has someone filled that vacancy, or
7 has the position been eliminated?

8 A This division has been, to my knowledge,
9 dissolved and the responsibilities added elsewhere
10 in various places within the department.

11 Q So let's set this document aside and
12 return to Exhibit 3.

13 Back on Page 10, one of the
14 responsibilities listed is "Manages the CFY
15 Community Mental Health Budget."

16 Do you see that line?

17 A I do.

18 Q Could you describe what that entails?

19 A So I do this in combination with a budget
20 office and budget team, but broadly my role is to be
21 aware of what the appropriations are for that
22 annually, and along with other members of my team or
23 my office or within -- across other offices is to
24 monitor that utilization and expenditures
25 month-to-month and annually.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
33

1 Q Just to make sure I understand, why are
2 you monitoring utilization and expenditures
3 month-to-month and annually?

4 A To make sure you don't overspend or
5 underspend.

6 Q And what are the consequences of
7 underspending?

8 A Underutilization, broadly downstream, you
9 want to make sure that you are maximizing the
10 funding that's available to you so that the
11 individuals intended for the services are getting
12 them.

13 Q And does your analysis of utilization and
14 expenditures inform the budget proposals that you
15 make for CYF services?

16 A I do not make budget proposals.

17 Q Who is responsible for that?

18 A I'll say broadly our finance team. Maybe
19 the CFO.

20 From time to time I may make budget
21 requests, and as part of our annual, I guess,
22 budgeting process, that may get included, it may not
23 get included.

24 Q To whom do you make those requests?

25 A It varies. And the format for the request

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
34

1 varies.

2 But, generally speaking, that would go to
3 either my director, that may go to a deputy
4 commissioner, or it may go to -- directly to the
5 budget office, the DBHDD budget office.

6 Q Just to make sure the record is clear,
7 when you say "my director," are you referring to
8 Monica Johnson?

9 A Correct.

10 Q And who is in the deputy commissioner role
11 at DBHDD?

12 A There are two now. Ashley Fielding is
13 one, and Jeff Minor is the other.

14 Q And who is the DBHDD budget officer?

15 A Mary Price is the CFO.

16 Q Could you give us some examples of the
17 kinds of budget requests you would make to any of
18 those individuals?

19 A For -- for example, a school-based mental
20 health budget request would be -- based upon some
21 formal or research or annual report, I may say we
22 would like to request an additional sum of money for
23 this particular program. Sometimes in response to
24 that I may receive certain questions to vet the
25 request. Other times I may just receive

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

35

1 acknowledgment of receipt.

2 From there, I don't know what happens.

3 Q And have you made requests for
4 school-based mental health budget items that have
5 been approved?

6 A So there's an active request now for an
7 increase that -- my understanding it's being
8 considered as part of this current legislative
9 session.

10 Last legislative session we received an
11 increase of \$2 million, but that was not in response
12 to a specific ask from myself or my team.

13 And then prior to that, in Governor Deal's
14 last office -- last year in office, there was a --
15 there was a commission, Georgia -- the Commission
16 for Children's Mental Health, where one of the
17 recommendations was to increase the school-based
18 budget for my office, and we received an increase
19 that year. I think it was just over \$4 million.

20 That wasn't in -- I think we had a broad
21 ask when, you know, we were being asked about what
22 needs were and, you know, the things that we want to
23 see happen, but we didn't make a specific ask but we
24 received an increase.

25 Q And how much additional funding is the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

36

1 current request for, the one that's pending?

2 A I don't remember the number exactly. I
3 think it's in the ballpark of \$5 million.

4 Q And what is -- how would you want to
5 allocate that additional funding?

6 A To sustain the last expansion of the
7 school-based program, which we refer to as Apex, and
8 in Governor Kemp's first year in office he
9 recommended and the legislature approved a one-time
10 allocation of \$8.4 million.

11 And we have asked for annualization of
12 half of that, that appropriation, in addition to
13 restoration of some funds that were lost during our
14 budget reduction a couple years back.

15 Q I just want to make sure the record is
16 clear that that one-time allocation, was it 1.8
17 million or 8. --

18 A I believe it was 8.4 million.

19 Q Thank you.

20 So, in your view, is this \$5 million
21 allocation that you've requested necessary to
22 sustain the Apex program at its currently level?

23 A To sustain the last expansion of the Apex
24 program at its current level, yes.

25 Q We're going to skip ahead a little bit

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
37

1 here. We're going to talk a lot about Apex later,
2 but I'm just -- since we're talking about it now,
3 could you describe what that last expansion
4 entailed?

5 A Apex is a single statewide program, and it
6 has -- we use different titles for it based upon the
7 funding sources that are supporting it. Single
8 program supported by multiple fund sources.

9 Apex 1.0 is supported by the core CYF
10 budget. Apex 2.0 was annualized funding that we
11 received by way of the recommendations from Governor
12 Deal's Commission on Children's Mental Health. And
13 Apex 3.0 was funding received by way of Governor
14 Kemp, which was a one-time appropriation.

15 Q Thank you.

16 Through that Apex 3.0 appropriation, how
17 many additional schools were enrolled in the
18 program?

19 A I don't know off the -- I don't know that
20 amount. It's a rolling program.

21 Q Is it fair to say there are schools that
22 were previously not participating in Apex that now
23 are participating in Apex because of Apex 3.0?

24 A Yes.

25 Q More than 10?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

38

1 A I would say more than 10.

2 Q More than 50?

3 A I can't say it's more than 50. It would
4 be speculation.

5 Q Is there a document that you could refer
6 to that would give you a more specific figure for
7 the number of schools that were enrolled through
8 Apex 3.0?

9 A There is a document. So we receive
10 regular reporting on the number of schools,
11 organized by fund source. Typically, it's just a
12 listing. It is not numerized.

13 Q Thank you.

14 So while we're on the topic of budgeting,
15 I want to show you another document. Can you set
16 aside Exhibit 3 just for a minute.

17 (WHEREUPON, Plaintiff's Exhibit-5 was
18 marked for identification.)

19 BY MR. HOLKINS:

20 Q So you've just been handed what's been
21 marked Exhibit 5.

22 MR. HOLKINS: I'll note for the record
23 that this document was produced to us by the
24 State, by I mean the United States.

25 The Bates number is GA00051873.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
39

1 BY MR. HOLKINS:

2 Q Mr. McKay, please take a minute to review
3 the document and let me know when you've finished.

4 (Witness reviews exhibit.)

5 A I've reviewed the document.

6 Q Have you seen this before?

7 A I have seen various versions of what looks
8 like this. But please allow the record to reflect
9 that I cannot read this -- the last couple of pages.
10 It's very small.

11 Q I'm sorry for that. This is how it
12 printed out. We can just speak generally about the
13 document.

14 I'll note the file name for the document
15 is "Budget Tracking Summary, Updated 7.10.2020."

16 On the first page, which I think you can
17 read -- are you able to read the first page?

18 A I am.

19 Q This identifies DBHDD programs as well as
20 the FY2020 base budget, and then a 14 percent, 11
21 percent, and 10 percent reduction to that base
22 budget.

23 Is that accurate?

24 A The reductions I think were proposed based
25 upon various factors that were going on at the time.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
40

1 Q So I'll just first note that among the
2 DBHDD programs listed is C&A MH.

3 Do you see that text?

4 A I do.

5 Q Does that stand for child and adolescent
6 -- or Children and Adolescent Mental Health?

7 A It does.

8 Q Is that broadly the budget for your
9 office?

10 A Yes, that's correct.

11 Q So you mentioned that these were reduction
12 proposals made based on various factors. My
13 question is whether you had any involvement in the
14 proposed reduction for C&A MH?

15 A Yes.

16 Q Can you describe your involvement?

17 A My involvement was to respond to requests
18 from our budget team. You know, there were various,
19 I guess, questions made in terms of program
20 locations, program liability, staffing factors.

21 There was a -- there was a particular
22 number that we needed to get under, whether it was
23 14, 11, or 10 percent, and in an effort to get under
24 that number, as a part of global work going on at
25 the agency, we were asked to respond to, you know,

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
41

1 several questions about certain things. And then
2 based upon that feedback, some decisions were made.

3 So in terms of what's listed here, the
4 \$71.5 million, I can't confirm that that's the exact
5 amount. That seems about right. The more recent
6 version of the budget that I've seen was around \$49
7 million.

8 Q Would that be for FY2022?

9 A I don't know if it's the current fiscal
10 year or the upcoming fiscal year.

11 Q So it's fair to say there's been a
12 meaningful reduction in your office's budget between
13 FY2020 and the current fiscal year; is that correct?

14 A That is correct.

15 Q Is it also accurate that you were
16 functionally making recommendations about where to
17 cut money from your own budget; is that right?

18 A I would rephrase it to say I was asked
19 questions about impact to -- if a program was cut,
20 what would be the impact, based upon various
21 factors.

22 Q What recommendations did you make for
23 where to make these cuts?

24 A I don't remember specifically, but it was
25 a full view of the programs within my office, to

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
42

1 include things like youth mental health clubhouses,
2 Apex, funding to core providers.

3 It was just a broad view of if this were
4 to go away, what would be the impact. If this was
5 reduced, what do you think would be the impact?

6 I can't give specifics. It was a moving
7 target, very quickly, and a lot to consider.

8 Q Do you recall ultimately where those
9 budget cuts were made?

10 A I could name two specifics, but -- or two
11 generalities, but overall cuts, I don't remember
12 offhand.

13 There was a reduction to the Apex program,
14 and then there was a reduction to the youth mental
15 health clubhouses around the State. I believe we
16 reduced by three. Three were closed.

17 Q And you -- first off, you referenced core
18 providers. What are those?

19 A So DBHDD has a three-tier provider
20 network. Tier 1 would be our safety net for -- that
21 serves uninsured individuals or underinsured.
22 They're referred to as community service boards.
23 Tier 1 providers are core providers.

24 Tier 2 are traditionally Medicaid. They
25 bill Medicaid for services, but there are Tier 2

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
43

1 providers that also have contracts with my agency.

2 And then Tier 3 are specialty providers.

3 For child and adolescent services most of
4 the providers in Tier 1 and Tier 2 also fit into
5 Tier 3. Some Tier 2 providers are core providers
6 but not all are core providers. And simply what
7 that means is they have access to state funds,
8 either through a contract or through a kind of
9 funding line that is managed by, by others within
10 the agency.

11 I don't know exactly who is involved in
12 managing the account. I just simply know that it
13 works.

14 So, for example, say provider X may be
15 approved for a million dollars to serve the
16 indigent. That fund was reduced. I don't know the
17 exact amounts, but across the board those funds
18 available to core providers were reduced.

19 Q And just one more question about core
20 providers. What is required to become a core
21 provider? Is there an expectation that you can
22 provide a certain set of services?

23 A There are extensive criteria that is
24 managed and tracked by our Office of Provider
25 Enrollment.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
44

1 Q Where did the instruction come from to
2 make recommendations about where this reduction
3 should occur?

4 A There were not instructions as to where it
5 should come from.

6 Q Let me rephrase.

7 Who at DBHDD asked you to make
8 recommendations with respect to this reduction?

9 A Various members of our budget team were
10 leading this work. The budget team is led by our
11 CFO.

12 We have a budget director and we have a
13 division budget director, and then we have staff
14 that support them.

15 So it was rolling and ongoing.

16 Q And to your knowledge, is DBHDD
17 Commissioner Judy Fitzgerald involved in making the
18 recommendations or decisions with respect to budget
19 reductions?

20 A I don't know the answer to that.

21 Q Do you discuss the reductions at all with
22 your direct supervisor, Monica Johnson?

23 A Broadly speaking, I'd say that's fair to
24 say.

25 Q Let's set this aside and go back to

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
45

1 Exhibit 3, and we'll stick with it this time.

2 I want to direct you to the third bullet
3 on Page 10, which reads: "Writes policy for CYF MH
4 services and payments on the oversight team."

5 Do you see that?

6 A Yes, I do.

7 Q Could you describe what writing policy for
8 mental health services entails?

9 A There is a -- the DBHDD policies are
10 housed on an electronic database called Policy Stat.

11 In my tenure, I may have had limited
12 participation in updating a policy. I have not
13 introduced a new policy.

14 And then the other area, what we refer to
15 as the DBHDD Behavioral Health Provider Community
16 Manual, that's updated quarterly.

17 I participate in something called
18 Concurrence, where we review proposed changes.

19 I have made proposed changes over the
20 years, and then if approved by the group, majority
21 approval, then those changes get updated in the
22 provider manual and published.

23 Q So, first off, who participates in this
24 group? I think you called it -- is it Concurrence?

25 A Yes.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
46

1 Q Who are the participants in Concurrence?

2 A Typically would be other office directors.

3 So the directors of the offices within the

4 Behavioral Health Division.

5 Q So your counterparts at the other
6 divisions; is that right?

7 A Other offices within our division.

8 Q Okay, thank you.

9 A Sometimes there may be representatives
10 from other divisions, if there's a broad impact or
11 cross-cutting impact. But there's -- sometimes --
12 there's like core membership, which would be the
13 behavioral health directors, and then sometimes
14 there's additional members based upon what is being
15 proposed.

16 Q So with apologies, I just want to make
17 sure we're tracking this. Could we look back to
18 Exhibit 4, which is the org chart.

19 I know there have been some changes to
20 this document, but I'm hoping you can identify in
21 the document who would be the other behavioral
22 health directors.

23 A So if you go to Page 12, Division of
24 Behavioral Health, these would be the directors that
25 participate.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
47

1 Not all. I would say core participants
2 would be myself; the director for the Office of
3 Addictive Disease, which is still Cassandra Price;
4 Dr. Terri Timberlake Briscoe, who is the director of
5 the Office of Mental Health. And others would be ad
6 hoc, as needed.

7 Q What year do you think this version of the
8 DBHDD org chart is from?

9 MR. PICO PRATS: Objection; speculation.

10 Q You can answer.

11 MR. PICO PRATS: You can answer.

12 A I don't know per se. I would say it's at
13 least, at least two years old.

14 Q Thank you.

15 So setting aside Exhibit 4, and sticking
16 with Concurrence, under the core members of that
17 group or the other behavioral health directors, I'm
18 wondering whether you ever had participation from
19 other child serving state agencies in Georgia, like
20 Georgia DOE?

21 A No.

22 Q Does the GNETS program director ever
23 participate in Concurrence?

24 A No. This is internal to DBHDD.

25 Q Okay.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
48

1 A Mostly the Behavioral Health Division.

2 Q Do individuals at Georgia DOE have
3 opportunities to provide input on changes made to
4 DBHDD's provider manual?

5 A I don't know the answer to that. I don't
6 know the answer.

7 Q That's okay. Let me try it another way.

8 Have you ever had direct coordination with
9 staff at Georgia DOE regarding DBHDD's provider
10 manual?

11 A No, I haven't.

12 Q What about at DCH?

13 A Possibly. There -- so the way it would
14 work -- so I have not had any specific conversations
15 about the provider manual, adding or taking
16 something out, but the way it could work is, as
17 we're partnering across child serving agencies, if
18 there was a conversation or general agreement about
19 something that could be reconciled with a policy
20 change to Policy Stat or the provider manual, then I
21 could go back and introduce something to make a
22 tweak or addition that would align with, you know,
23 general consensus.

24 That could happen normally with other
25 agency partners, or it could happen without their

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
49

1 knowledge.

2 Could it have happened, changes been made
3 over the years without their knowledge? Possibly.

4 But there have not been any specific
5 conversations about specific policies or provider
6 manual the agency partners asked us to make, that we
7 did make or did not make.

8 Q And would that also apply, that statement,
9 would that apply to conversations with GNETS'
10 program director as well?

11 A It would not apply to GNETS program
12 directors.

13 My interaction with GNETS program
14 directors has been little to none.

15 Q Is that true since you assumed this
16 position in February 2016?

17 A Yes, that's correct.

18 Q You mentioned that you have had
19 opportunities and at times have actually made
20 recommendations for changes to the provider manual.

21 Is that accurate?

22 A Yes, that's correct.

23 Q What informs those recommendations?

24 A The need to memorialize programming or to
25 update changes made programmatically to programming.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
50

1 For example, Apex program, relatively
2 speaking, is a newer program. It started in the
3 year 2016. It started in the absence of a specific
4 policy or reference to the program within the
5 provider manual.

6 After operating -- after coming on board
7 in 2016 and operating the program for a couple of
8 years and it growing and our making tweaks along the
9 way based upon learnings or things that we saw, we
10 added a service guideline to the provider manual
11 about the Apex program.

12 Q So I'd like to jump to another bullet in
13 this list.

14 A Which list?

15 Q Give me one second.

16 This is on the last page, Page 11, third
17 to last bullet, which reads: "Monitor CYF service
18 utilization, requirements and provide overall
19 planning for ongoing utilization and guidelines."

20 Do you see that bullet?

21 A I do not. Which page?

22 Q This is Page 11, the third to last bullet
23 at the bottom.

24 A Oh, third-to-last.

25 Yes, I see that bullet.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
51

1 Q Could you describe what monitoring CYF
2 utilization entails?

3 A It would be to look at things like the
4 number of youth served, unique youth, services
5 provided. Whether it was -- an example of that
6 would be individual counseling or group counseling
7 or family counseling. And to track that from
8 month-to-month and annually.

9 Q Do you receive regular reports in
10 connection with this responsibility?

11 A For some programs, yes. Not all programs.

12 Q For which programs do you receive regular
13 reports?

14 A Apex program would be one of those. Our
15 youth mental health clubhouses.

16 Programs that we have -- so we have a
17 contract with Georgia State University for multiple
18 things, but one of those is fidelity monitoring of
19 our programs or just tracking metrics. For those
20 programs we receive regular reports.

21 So Apex would be one of those programs.
22 Clubhouse would be one of those programs.

23 Something called Intensive Customized Care
24 Coordination would be another.

25 Q That's also known as IC3, correct?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
52

1 A That's correct.

2 Q Do you receive regularly reports tracking
3 service utilization broadly by Tier 1 community
4 service boards?

5 A I do not.

6 Q So do you have any other regular basis for
7 tracking or assessing how much of each core service
8 community service boards are providing to children
9 and adolescents?

10 A We have an IT director that monitors and
11 can produce various reports on an ad hoc basis that
12 I see. I can't speak to what his day-to-day
13 monitoring is.

14 For context, prior to my arrival in 2016,
15 I don't know what year, but there was a redesign of
16 the system. The CMOs came in place. The majority
17 of children in Georgia, according to -- I guess some
18 of the last statistics that I saw, about 45 percent
19 of Georgia's youth are enrolled in a managed care
20 organization, about 45 percent of Georgia's youth
21 are enrolled in private insurance, and then DBHDD
22 has primary responsibility for the remainder that
23 are uninsured or have Medicaid.

24 Q What document are you referencing that
25 provides those statistics?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
53

1 A Not a particular document. Just
2 statistics that I have seen along the way.

3 Q And who was the IT director that you say
4 is able to produce ad hoc reports about core service
5 utilization?

6 A John Quesenberry.

7 Q It's Quesenberry; is that correct?

8 A Correct.

9 Q Does Mr. Quesenberry have a background in
10 behavioral health services?

11 A I cannot speak to his background.

12 Q His title is IT specialist; is that
13 correct?

14 A I don't know his exact title. I believe
15 it has IT in it.

16 Q You're only receiving those reports from
17 Mr. Quesenberry when you request them; is that
18 correct?

19 A Correct, for core services.

20 Q And when is the last time you requested a
21 report from Mr. Quesenberry about core service
22 utilization?

23 A I do not recall.

24 The, the numbers are very small for
25 uninsured children or those with SSI Medicaid in

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
54

1 Georgia -- the numbers are very small for uninsured
2 children of those with SSI Medicaid in Georgia.

3 And so the reason a Georgia State contract
4 is valuable and important to us is because we can
5 see utilization regardless of payor source.

6 We only have access to youth that would,
7 in terms of utilization and payment, that would be
8 uninsured or SSI Medicaid, but according to the
9 statistics that are generally aware to me, many
10 children fall outside of that.

11 And so having a neutral organization that
12 can access multiple agencies and payor sources
13 allows us to see across payor.

14 For example, Apex, I think in the regular
15 reporting, typically cover lives -- so the children
16 that are served under the program typically average
17 between 80 and 90 percent are in managed care.

18 Q Which agency -- which state agency in
19 Georgia is responsible for maintaining utilization
20 data for children enrolled in Medicaid or managed
21 care?

22 A I don't know the answer to that question.
23 I do know that DCH -- the managed care organizations
24 are the defender of DCH.

25 Q Do you ever request from DCH data that

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
55

1 would show core service utilization across the
2 State?

3 A Not directly, but through our office of
4 Medicaid coordination we may make requests. Through
5 Georgia State University we may make requests.

6 Q Do you receive regularly from Georgia
7 State University to start reporting on core service
8 utilization across payor sources?

9 A For specific programs?

10 Q For example, for Apex.

11 A For Apex, and Apex is -- Apex is more of a
12 framework. It's a programmatic framework. It does
13 not produce any new services that are not already
14 available as a part of the core -- our core packet
15 -- core service package.

16 For example, an Apex report will say X
17 number of students receive individual counseling for
18 this month. Individual counseling is a service
19 available to core providers that is part of our core
20 benefit package.

21 Q Let's stick with individual counseling as
22 a concrete example. Are you tracking, not specific
23 to Apex or any program, utilization of individual
24 counseling by children regardless of payor source
25 across the State?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
56

1 A Only for specific programs. So Apex -- so
2 the ones that we contract with Georgia State for,
3 Apex, Clubhouse, IC3, we see that, that rich data.
4 Outside of that, I do not see that type of
5 utilization, unless there is a specific request, ad
6 hoc request, and then it would be only those who are
7 uninsured or receive services or SSI Medicaid and
8 receive services.

9 Q So when you make those specific ad hoc
10 requests, you're not accessing data for Medicaid
11 enrolled or CMO enrolled children?

12 A No. So John, our IT folks, whoever pulls
13 the utilization data, they don't have access to
14 Medicaid data.

15 Q Okay.

16 A They have -- at least not CMO Medicaid
17 data. They have access to SSI Medicaid. They have
18 access to uninsured.

19 So if I request that information, it is
20 only a -- it's only a part of the picture. It's not
21 the full picture.

22 Q We're going to take a break in a few
23 minutes. I think we're about overdue, but I just
24 want to finish this line.

25 Just for clarity, services like individual

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
57

1 counseling are available through community service
2 boards, core providers, outside of Apex, correct?

3 A Correct.

4 MR. HOLKINS: This is actually a good
5 time. Let's take a ten-minute break.

6 So back on around 11:38.

7 Thank you.

8 THE WITNESS: Thank you.

9 THE VIDEOGRAPHER: We're off the record at
10 11:29 a.m.

11 (A recess was taken.)

12 THE VIDEOGRAPHER: We're back on the
13 record at 11:50 a.m.

14 BY MR. HOLKINS:

15 Q Welcome back, Mr. McKay. I wanted to just
16 wrap up our discussion of this salary increase,
17 which is Exhibit 3.

18 Could you turn to Page 5.

19 A I have it.

20 Q Do you see in the section labeled
21 "Solicitations Since February 2016"?

22 A Yes.

23 Q Are these the budget increase requests
24 that you've made -- that you had made at that time?

25 A No.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
58

1 Q What are the -- what are these
2 solicitations?

3 A These are -- these follow budget
4 increases, and I don't necessarily -- as I mentioned
5 before, the increases could happen in the absence of
6 a formal request.

7 Q So specifically, this is on Page 6, for
8 the item labeled No. 6, Mobile Crisis, did you make
9 a request in connection with this solicitation?

10 A No, I did not.

11 Q So what, what was your contribution? What
12 did you do in connection with this mobile crisis
13 solicitation?

14 A I was part of a, I guess, procurement
15 team, with other directors as well.

16 My participation and interest were to
17 represent children services.

18 (Pause.)

19 THE VIDEOGRAPHER: Off the record at 11:54
20 a.m.

21 (Recess taken.)

22 THE VIDEOGRAPHER: We're back on the
23 record at 12:00 p.m.

24 BY MR. HOLKINS:

25 Q Mr. McKay, just another couple of

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
59

1 questions about this document.

2 First off, was your request for a salary
3 increase in April 2020 granted?

4 A Not in April 2020.

5 Q Did you make a request after this one?

6 A I made reminders.

7 Q But it was the same request?

8 A It wasn't specific, but just a reminder
9 about this document.

10 Q And, ultimately, was the request for a
11 salary increase approved?

12 A I did receive an increase. I want to say
13 -- in December of 2020.

14 Q And have you submitted any salary requests
15 since then?

16 A I have not.

17 Q I want to show you another document.

18 (WHEREUPON, Plaintiff's Exhibit-6 was
19 marked for identification.)

20 BY MR. HOLKINS:

21 Q You've just been handed what's been marked
22 as Exhibit 6.

23 MS. COHEN: I'll note for the record this
24 is GA01748346, produced by the State of Georgia
25 to the United States.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
60

1 BY MR. HOLKINS:

2 Q Mr. McKay, please take a moment to review
3 the document and let me know when you've finished.

4 A I'm finished.

5 Q So if you turn to -- well, first, the
6 first page, the file name for this document is "Book
7 of Business, OCYF, August 20."

8 Is that correct?

9 A Yes, that's correct.

10 Q Could you describe what this document is?

11 A This was an attempt to assess the
12 commitment of my team, of my office and my team
13 members, as it relates to attending various meetings
14 and demands on their schedule and their time.

15 Q Did you draft this document?

16 A Yes, I did.

17 Q Did you receive input from the members on
18 your team with respect to this document?

19 A Mostly confirmation of the accuracy of
20 these meetings, and if something was missing and
21 needed to be added.

22 Q So the document identifies a number of
23 tasks or committees and then designates a lead staff
24 person within your office for each of those
25 activities. Is that accurate?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

61

1 A Yes.

2 Q And was this document accurate and
3 complete as of the date it was submitted, which is
4 8/24/2020?

5 A I cannot confirm that.

6 Q Are there any changes that you would make
7 to this document to address inaccuracies?

8 A I don't understand the question.

9 Q Let me try again.

10 Are there any tasks or assignments
11 described in this document that are not accurate?

12 A As of 8/20?

13 Q Correct, as of the date that it was
14 submitted.

15 A I can't recall.

16 Q Okay. Have you drafted subsequent
17 versions of this document?

18 A I'm not sure.

19 Q Has anyone in your staff -- excuse me.

20 Has anyone at OCYF submitted a version of
21 this document since August 2020?

22 A I'm not sure.

23 Q What was the genesis of this document?

24 A To manage demands on my staff's time.
25 Either to request additional staff to manage these

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
62

1 multiple meetings and activities; or if that was not
2 possible, to prioritize which we would continue to
3 attend and reduce the burden on my team's time.

4 Q Did you have specific concerns about your
5 staff's capacity when you drafted this document?

6 A I can't speak to my, my frame at the time.

7 Q To whom did you submit this document?

8 A This wasn't submitted to anybody that I
9 recall. This was for my purposes.

10 Q So would it be fair to say it was an
11 internal OCYF document that you were using to help
12 organize your time and staff; is that correct?

13 A Yes.

14 Q Were any changes made to assignments in
15 response to your drafting this document?

16 A I think that's fair to say.

17 Q So let me just reask the question.

18 Were any changes made to the assignments
19 on this document in response to your drafting it?

20 A I think that's fair to say.

21 Q That there were changes made?

22 A Yes.

23 Q What specific changes were made?

24 A So to clarify, I'm not saying that there
25 were definitely changes made to this document after

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

63

1 this time. It's possible. I don't recall. But in
2 terms of my team's work assignments, this would no
3 longer be an accurate reflection.

4 My team is smaller. We have less capacity
5 to do these things.

6 Q And is your team smaller as a result of
7 the budget reductions we discussed earlier?

8 A That is one contributing factor, yes.

9 Q What are the other contributing factors?

10 A Natural turnover, people leaving for other
11 opportunities.

12 Q I'd like to turn, if we could, to the
13 third page of the document, and that's counting the
14 cover page.

15 So toward the middle there is an entry for
16 "GNETS Leadership Meeting (DOE)."

17 Do you see that?

18 A Yes.

19 Q And you're designated as lead for that
20 task, correct?

21 A Yes.

22 Q Could you describe what your work on the
23 GNETS Leadership Meeting entails?

24 A There is a statewide GNETS director at the
25 DOE, and I would have regular meetings with that

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
64

1 individual to provide general updates and answer
2 general questions as it relates to programs and
3 services supported with funding from my office.

4 Q How long have you been doing that?

5 A I don't remember the exact time, but for a
6 while. But I want to say the last meeting with that
7 individual occurred in late 2020.

8 Q So you've not had a meeting -- I just want
9 to make sure I understand.

10 You've not met with the statewide GNETS
11 program leader since late 2020; is that correct?

12 A That's correct.

13 Q Do you know who is currently in that role?

14 A I know who was last in that role. I don't
15 know if she's currently in that role.

16 Q What's your understanding of who was last
17 in that role?

18 A Vickie Cleveland.

19 Q And that was the individual you were
20 coordinating with back in late 2020?

21 A Meeting with, correct.

22 Q And did you also meet with Ms. Cleveland's
23 predecessors in that role?

24 A Yes.

25 Q Which ones?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
65

1 A I don't remember her name per se. It was
2 a female. She grew ill and there was a period of
3 time that elapsed, and then the new person was
4 Vickie, and we continued to meet.

5 I think her name was Nakeba Rahming,
6 maybe.

7 Q Nakeba Rohming or Rahming?

8 A Yes.

9 Q So what were the subjects you discussed in
10 these meetings with Vickie Cleveland?

11 A They were programmatic updates mostly.
12 She would ask questions about the Georgia Apex
13 program.

14 Q What kind of questions about Apex?

15 A About funding reductions, how the program
16 was impacted, funding increases, expansion plans.

17 She just wanted a general understanding of
18 the tiers of the program, how it worked, the schools
19 that it was in.

20 Q I think you mentioned also asking
21 questions of the GNETS directors during these
22 meetings; is that right?

23 A That's fair. General updates.

24 Q What kind of information would you be
25 seeking from the GNETS program leader in these

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
66

1 meetings?

2 A It would be -- there was often asks for
3 training of their I guess network directors and what
4 sorts of training I think would be helpful to that
5 group. And so I would ask questions about clarity
6 of needs and then I would make recommendations.

7 Q You mentioned you have been meeting with
8 the GNETS program leader since late 2020, correct?

9 A Correct.

10 Q Are you aware of anyone else in your
11 office, including Monica Johnson, is meeting with
12 the statewide GNETS program leader?

13 MR. PICO PRATS: It asks for speculation.
14 You can answer.

15 A I'm not aware of anyone else meeting with
16 GNETS.

17 Q Do you participate in any regular meetings
18 --

19 MR. HOLKINS: Let me reframe.
20 BY MR. HOLKINS:

21 Q Back when you were meeting with the GNETS
22 program leader, did you participate in any other
23 meetings regarding GNETS on a regular basis?

24 A No, note on a regular basis.

25 Q And is that true at present?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
67

1 A Yes.

2 Q Are you aware of whether Monica Johnson
3 participates in any regular meeting --

4 MR. PICO PRATS: Objection.

5 Q -- regarding GNETS?

6 MR. PICO PRATS: You can answer.

7 A I'm not aware.

8 Q Scanning through this document, are there
9 any other updates that you have regarding the tasks
10 or activities for which you've been designated to
11 reflect changes made since this document was
12 drafted?

13 A So generally speaking, yes, this list
14 would be shorter than currently -- than what's
15 currently reflected here.

16 Q Could you identify the specific items for
17 which you are no longer lead?

18 A Going through it one by one? Because it
19 would be many of these.

20 Q Yes, I think it would be helpful if we
21 could go through the full list.

22 A Okay. I would say the Deaf Mental Health
23 Team Meeting. The lead for that now would be
24 Kristi.

25 Q Kristi who? I'm sorry?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
68

1 A Kristi Burke.

2 The ASD Steering Committee. Toni -- would
3 now be Toni Simms would be the lead.

4 The ASD Tracking Unmet Need doesn't exist
5 anymore.

6 We have not participated in ASO Provider
7 Enrollment in quite a while. No one on my team.

8 ASO Quality Meeting, Diana is not the
9 supporting team member, and I attend that meeting.
10 It's a monthly meeting, is the frequency, and I
11 attend as my schedule allows.

12 The Behavioral Coordinating Council,
13 previously I was a required participant at that
14 meeting. I am no longer required. I attend as my
15 schedule allows.

16 The BH/IDD Steering Committee and all of
17 the subgroups no longer exist.

18 We no longer have a Budget Projection
19 Meeting.

20 CANS meeting, which the CANS is a meeting
21 that I wanted to establish. Never got it off the
22 ground.

23 Child Abuse & Neglect Prevention Plan
24 meetings no longer exist.

25 The Child & Adolescent Coalition Meetings

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
69

1 (Voices), I attend as my schedule allows.

2 The Child & Adolescent Psychiatric
3 Fellowship is ad hoc, meetings as needed.

4 Child Welfare Training Collaborative, we
5 don't participate. I don't think it exists anymore.

6 I don't know about the Children's Justice
7 Act Task Force.

8 CHINS Statewide Collaborative Alternative
9 hasn't met in a very long time, and I was unable to
10 attend the last meeting. I think there's been one
11 meeting in a year and I had a conflict and was
12 unable to attend that meeting.

13 The citiesRISE doesn't exist anymore.

14 Community Innovation doesn't exist
15 anymore.

16 The CPS-P&Y Professional Development
17 Academy doesn't exist. Never got it off the ground.

18 Q For the second page, you can just focus on
19 the task for which you were designated lead.

20 A Just designated lead.

21 I do not participate in Deaf Services
22 Advisory Council.

23 I have not had a DFCS leadership meeting,
24 standing meeting, in over a year due to turnover
25 within the agency.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

70

1 I don't participate in the Families First
2 - Candidacy Workgroup. That work was completed.

3 I have not participated in GNETS
4 Leadership Meeting since late 2020.

5 I don't participate in the IDD Safety Net
6 meeting.

7 I participate in IDT as my schedule
8 permits.

9 I participate in the Infant and Toddler
10 Task Force as my schedule permits.

11 The IFI Provider Relations, we never got
12 that off the ground.

13 Internship Program, we never got that off
14 the ground.

15 Joint BH/IDD Quarterly Meetings doesn't
16 exist.

17 The Maternal Child Health Advisory
18 Council, I participate when my schedule allows.

19 For the NASMPD meetings, I participate
20 when my schedule allows.

21 The Payment Reform Committee no longer
22 exists.

23 Moving to the third page.

24 The Transition Age Youth meeting never got
25 off the ground.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
71

1 And the University System of Georgia
2 Mental Health Task Force completed its work.

3 Q Thank you very much. I appreciate that.
4 I do have a couple of questions for you
5 about some of the things which I believe you are
6 still doing.

7 On the second page, one of the entries at
8 the top is "DCH - CYF Leadership Meeting," and you
9 are designated lead.

10 Do you see that?

11 A DCH --

12 Q At the top of the document, Page 2.

13 A The third page. DCH- CYF Leadership
14 Meeting?

15 Q Uh-hum.

16 A Yes. I am not the -- I kind of -- I
17 co-lead that meeting with Wendy Tiegreen, who is the
18 director of the Office of Medicaid Coordination and
19 Health System Innovation.

20 I typically defer to her because this work
21 is more in her lane in terms of being the liaison
22 for Medicaid.

23 Q And this individual, I think it's Wendy --
24 what was her last name?

25 A Tiegreen.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
72

1 Q -- Tiegreen.

2 She is at DBHDD as well?

3 A Yes.

4 Q What's discussed at these DCH - CYF
5 leadership meetings?

6 A It's more coordination between the
7 agencies. Barriers or facilitators to the work
8 generally.

9 Sometimes we get into specific case
10 staffing.

11 Q Could you identify some of the barriers to
12 the work that have been discussed at these meetings?

13 A It would be for -- more recently. So this
14 is a standing meeting.

15 It would be things like impacts of the
16 pandemic on the workforce, and a barrier would be
17 like our crisis stabilization units taking beds
18 offline because staff are out sick or they don't
19 have enough staff.

20 It would be things like that.

21 Q Have you ever discussed concerns about
22 specific service utilization at these meetings?

23 A I don't understand the question.

24 Q So let's take a concrete example.

25 IC3, if there were concerns about

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

73

1 availability or utilization of that service, is that
2 something that you would discuss at this DCH-CYF
3 leadership meeting?

4 A That is something we may discuss.

5 Q Have you ever discussed IC3 at these
6 meetings?

7 A Yes. We would discuss IC3.

8 MR. HOLKINS: I think we need to go off a
9 second to fix the setup.

10 THE VIDEOGRAPHER: Off the record at 12:26
11 p.m.

12 (A recess was taken.)

13 THE VIDEOGRAPHER: Back on the record at
14 12:29 p.m.

15 BY MR. HOLKINS:

16 Q Mr. McKay, you were talking about IC3 in
17 the context of these meetings that you have with
18 DCH. What specific questions about IC3 have come up
19 at these meetings?

20 A I can't speak to specifics.

21 Q Is it because you don't recall?

22 A I don't recall. It would be -- it may be
23 a review of latest report or it may be asking
24 questions about the particular providers.

25 It was just in the course of standing

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
74

1 meetings and regular day-to-day kind of programmatic
2 discussions.

3 Q I think you said it could include review
4 of latest report; is that right?

5 A Correct.

6 Q What is that report?

7 A Through Georgia State we request report in
8 to look at utilization, quarterly reports, annual
9 reports.

10 What would be included in that is word
11 services, where there's density of services, and
12 where there may be gaps in services, particular
13 referral sources, length of stays within a
14 particular program. Things like that.

15 Q And so you get a report specific to IC3
16 from Georgia State University?

17 A Correct.

18 Q Are there other specific services for
19 which you receive those regular reports from Georgia
20 State University?

21 A Apex and youth mental health clubhouse.

22 Q Do you receive regular reporting from
23 Georgia State University with respect to the GNETS
24 program?

25 A No.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
75

1 Q So you're not receiving regular data with
2 respect to, for instance, length of stay for
3 children who are enrolled in GNETS?

4 A No.

5 Q What about data with respect to behavioral
6 health service utilization for children who are
7 enrolled in GNETS, do you receive that?

8 A No.

9 Q I guess more broadly, do you receive any
10 regular data or reporting with respect to students
11 enrolled in GNETS?

12 A No.

13 Q Do you know if anyone on your staff at
14 OCYF receives any regular data reporting with
15 respect to children enrolled in GNETS?

16 A I do not.

17 Q You don't know?

18 A I do not know.

19 Q We probably should have covered this
20 earlier but let's go back and talk about who you
21 supervise.

22 Could you identify the individuals who are
23 on your staff at OCYF?

24 A So there are -- that I supervise directly
25 or --

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
76

1 Q Let's start with that, the individuals
2 that you supervise directly.

3 A Dr. Stephanie -- so the --

4 Q And if you could also provide their roles,
5 that would be very helpful.

6 A Okay. The first group I would identify
7 would be my clinical team. Director -- the clinical
8 director is Dr. Stephanie Pearson.

9 And then there are two others in that
10 grouping that I have dotted lines to. They report
11 to Dr. Pearson but because of the nature of our
12 work, I may have regular interaction with them. And
13 that would be Toni Simms, who is the clinical
14 manager, and Diana Aspinwall, who is the clinical CY
15 specialist, statewide specialist.

16 The next group would be System of Care. I
17 directly supervise Matthew Clay. We have a federal
18 grant from SAMHSA called AIME. It's a System of
19 Care expansion grant. Matthew leads that work.

20 The next group would be Workforce
21 Development. Dr. Adell Flowers is the Workforce
22 Development program manager.

23 The last grouping would be community-based
24 programs. Layla Fitzgerald would be the program
25 director. She also serves as a liaison between my

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
77

1 office and DOE.

2 And now, because of the departure of
3 Tricia Mills, I am assuming management of Dr. Kristi
4 Burke, who is -- I think her title is program
5 coordinator.

6 Q Thank you.

7 What are your responsibilities as
8 supervisor with respect to the individuals who
9 report to you?

10 A To provide coaching; to lead meetings or
11 support in meetings led by my team members; to give
12 input, feedback; to make decisions as the -- I guess
13 as the director of the office, final decisions
14 sometimes that are required; to provide HR-related
15 functions in terms of salary reviews.

16 Broadly speaking, those would be the
17 categories.

18 Q As part of the salary reviews, are you
19 making assessments of performance for these
20 individuals?

21 A It is -- it's more along the lines of --
22 informally, yes. But it's more along the lines of
23 increased workload or equity compared to other
24 similar staff across the agency.

25 Q Have any of these individuals were

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
78

1 regularly receiving data about the GNETS program,
2 would you expect to know as their supervisor?

3 A Yes.

4 Q Lets go back to talking about this meeting
5 with DCH leadership. Who participates in that
6 meeting from DCH?

7 A A number of people, all of whom I don't
8 know.

9 But the -- I guess the standing person is
10 Catherine Ivy, who is typically available in the
11 meeting.

12 Q And do you -- excuse me.

13 Do you interact with Catherine Ivy outside
14 of the context of this meeting?

15 A Sometimes, but most of my interactions
16 with DCH flow directly through the Office of
17 Medicaid Coordination. If there is a need for me to
18 reach out to them directly as it relates to, say, a
19 specific child, I would -- I may be copied on the
20 email. Sometimes I may initiate the email, but
21 Medicaid Coordination would always be copied if I
22 didn't go through them.

23 Q What kind of issues about a specific child
24 would you be reaching out to DCH about?

25 A If there was a question about their

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
79

1 Medicaid status.

2 Sometimes children -- oftentimes children
3 churn between different payors. So because of life
4 circumstances, in a particular year they may be
5 under private insurance, and then a part of
6 Medicaid, and then uninsured.

7 We don't have access to all of that data
8 or payor source. So we would need to coordinate
9 with DCH to determine if that's a Medicaid managed
10 care covered life.

11 Q So you have no way of knowing whether a
12 specific child is a Medicaid beneficiary unless you
13 asked DCH?

14 A Correct.

15 Q Do you have any other coordination on a
16 regular basis with DCH, beyond what you've just
17 described?

18 A There are a number of child serving
19 meetings, probably many reflected on Exhibit 6, that
20 I participate in that includes DCH.

21 Q I think we'll talk about that a little bit
22 later.

23 I want to shift to another child serving
24 agency within the State of Georgia, which is Georgia
25 Department of Education.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
80

1 What coordination, as part of your
2 official duties, do you do with the Georgia
3 Department of Education?

4 A There's a standing Apex leadership meeting
5 that I participate in, if my schedule allows. In
6 one of those meetings per month DCH participates.

7 The other thing that happened as of
8 September of 2021 is that Layla Fitzgerald became
9 officially as in between my office and DOE.

10 Q I'd like to talk more about that, but
11 first I want to go back and just clarify. I think
12 the record says that DCH participates in the
13 standing Apex leadership meeting. Did you mean to
14 refer to Georgia Department of Education?

15 A Yes.

16 Q And outside of that meeting, what are the
17 standing meetings in which you coordinate directly
18 with staff at the Georgia Department of Education?

19 A That's it. And I don't coordinate that
20 meeting.

21 As part of the Apex work, our contract
22 vendor with Georgia State convenes that meeting, and
23 I participate as my schedule permits.

24 Q Are you responsible for providing any
25 trainings to your staff at OCYF?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
81

1 A No.

2 Q Are you required to receive annual
3 training in your role?

4 A No. So correction: Yes. Not specific to
5 my role, but yes.

6 There are statewide required quarterly
7 trainings.

8 Q Do you receive any required training with
9 respect to children's behavioral health services on
10 an annual basis?

11 A Yes.

12 Q Could you describe that training?

13 A We host training. The Division puts on an
14 annual behavioral health symposium. Myself and my
15 team make sure there's child and adolescent content
16 for that.

17 We put on an annual, what's called, a
18 System of Care Academy, focused specifically on
19 children's behavioral health.

20 Q You've used the term a couple times today
21 and we'll talk about it later. I'm hoping you can
22 describe what System of Care means.

23 A It's not easily defined. It's many
24 things.

25 System of Care is an official framework,

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

82

1 but it's also particular programming, and at the
2 essence of System of Care is coordination of
3 services in many domains, whether it is with
4 recognizing family voice, whether it's coordinating
5 with multiple child serving agencies.

6 Q I'm going to quickly show you another
7 document.

8 (WHEREUPON, Plaintiff's Exhibit-7 was
9 marked for identification.)

10 BY MR. HOLKINS:

11 Q So you've just been shown what is marked
12 Exhibit 7.

13 MR. HOLKINS: I note for the record this
14 is GA00250529. It's titled, "OCYF Staff Plan,
15 Draft, 5/12/20."

16 BY MR. HOLKINS:

17 Q Mr. McKay, Please take a minute to read
18 the document and let me know when you've finished.

19 (Witness reviews exhibit.)

20 A I've reviewed the document.

21 Q Thank you.

22 Mr. McKay, did you draft this document?

23 A I believe so.

24 Q For what purpose?

25 A This was around the time that the agency

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

83

1 was considering reductions, including reductions in
2 staff. And so I think I produced this to have a
3 better understanding who was working on what at that
4 particular time. And if any of those staff were
5 lost, what the impact would be.

6 Q First off, let me ask, were any of these
7 staff lost as a result of the reduction?

8 A Yes.

9 Q Which ones?

10 A Well, there were many plans -- there are
11 many different versions of this. The Parent/Youth
12 Peer Support section is no longer -- Dana McCrary no
13 longer reports to me. Or Ana Martinez. Dave -- but
14 both still remain employed with the agency.

15 Dave Quashie was lost --

16 THE COURT REPORTER: I can't hear you, the
17 names.

18 A Dave Quashie was lost as part of the
19 reduction.

20 Dana McCrary and Ana Martinez were lost to
21 the office but moved to a different office.

22 Jessica Soto is no longer a part of the
23 office.

24 Ana Speed is no longer a part of the
25 office.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
84

1 Excuse me. Anita Speed is no longer a
2 part of the office.

3 Q Thank you.

4 To whom was this document submitted? Or
5 was it just internal?

6 A I don't know if I submitted this to
7 anyone.

8 Q Have there been -- as you mentioned, there
9 have been many versions of this document. Let me
10 just ask whether you've developed staff plans in the
11 last year?

12 A I can't say if I have or not.

13 Q Is this something that you regularly
14 produce on an annual basis, for instance?

15 A No.

16 Q You can put that aside.

17 I'd like to talk with you a bit about the
18 behavioral health services that are available
19 through Georgia's publicly funded system. We should
20 be able to get through a few of these documents in
21 the next maybe 20 minutes or so and, and then we'll
22 take a break for lunch, if that's all right.

23 A Okay.

24 (WHEREUPON, Plaintiff's Exhibit-8 was
25 marked for identification.)

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

85

1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what's
3 been marked Exhibit 8. Please take a moment to
4 review the document and let me know when you've
5 finished.

6 A Okay.

7 (Witness reviews exhibit.)

8 A I've reviewed the document.

9 Q Thank you.

10 MR. HOLKINS: I'll note for the record
11 this is a letter dated February 12, 2021, from
12 Alexa Ross to counsel for the United States in
13 this matter, and it provides the State's
14 supplemental responses to certain of the United
15 States interrogatories.

16 BY MR. HOLKINS:

17 Q And I want to direct your attention in
18 particular, Mr. McKay, to the State's supplemental
19 response to Interrogatory No. 17, which appears on
20 Pages 3 and 4 of this document.

21 First, let me ask you whether you had any
22 role or any involvement in compiling, drafting or
23 reviewing the State's supplemental response to
24 Interrogatory No. 17?

25 A I don't know.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
86

1 Q Have you seen this document before?

2 A I don't know.

3 Q Are you generally familiar with the
4 services identified in the State's supplemental
5 response to Interrogatory No. 17 on Pages --

6 A Yes.

7 Q -- 2 and 3?

8 A Yes, I am.

9 Q And how do you --

10 MR. HOLKINS: Let me reask that.

11 Q What's the basis for that familiarity?

12 A These are services listed in the
13 behavioral health provider manual for DBHDD.

14 Q It is accurate to say that the behavioral
15 health provider manual defines and sets requirements
16 with respect to each of these services?

17 A No, not exactly.

18 Q Could you explain?

19 A The services -- the provider manual
20 contains services that are a part of the DBHDD core
21 service package. Who determines those services, I
22 don't know.

23 And then the provider manual specifies the
24 requirements for those services. Like admission
25 criteria, continuing stay, those sorts of things.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
87

1 Q Thank you for that clarification.

2 And so providers of the services described
3 in DBHDD's provider manual must comply with the
4 requirements set forth in that manual, correct?

5 A Correct.

6 Q How does DBHDD assess whether the services
7 described in its provider manual are being
8 implemented consistent with those standards?

9 A I don't know. It's a different office.

10 Q Which office would that be?

11 A If we can refer to one of the previous
12 exhibits.

13 Q Please feel free to look back at Exhibit
14 No. 4, which is the org chart for DBHDD.

15 A So if you go to Page 15, and again with
16 the caveat that there's been some redesign of the
17 department, each of the offices or capacities
18 represented here would have a role in assessing
19 provider performance.

20 And then if you go to Page 16, I would say
21 the one, two, three, four, five, reading from left
22 to right, the first five boxes would have some
23 responsibilities for assisting provider performance.

24 Q That's on Page 16, correct?

25 A Correct.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
88

1 Q Are you familiar with how the individuals
2 in those offices go about assessing provider
3 performance in connection with the provider manual?

4 A I am not. What I do know is that we have
5 KPIs, metrics, standard metrics, that they assess
6 according to some frequency.

7 Key performance indicators is KPI.

8 Q Thank you.

9 Does DBHDD have its own fidelity standards
10 with respect to services in its provider manual?

11 A I don't know the answer to that.

12 Q Are you familiar with the term
13 "evidence-based practice"?

14 A Yes.

15 Q What is an evidence-based practice?

16 A It is a practice that's been vetted by and
17 approved by, scientifically, by the research
18 community.

19 Q Is it important in your view that
20 Georgia's behavioral health service providers use
21 evidence-based services?

22 MR. PICO PRATS: Objection.

23 You can answer.

24 A Yes.

25 Q Why?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
89

1 A Because they have been vetted and found to
2 be -- they're to be benefits for them. There are
3 hundreds of EBPs, and EBPs are not consistent across
4 industries. So behavioral evidence-based practices
5 may not be the same as educational evidence-based
6 practices. But it's a value to having something to
7 promote benefits of a particular practice and to
8 have that tested and vetted and verified.

9 Q And do you undertake any efforts in your
10 official role to promote implementation of
11 evidence-based services in the State of Georgia?

12 A We, as a part of our training offerings,
13 we select certain evidence-based practices that we
14 make available as part of, say, the annual System of
15 Care Academy.

16 My office, over the last year, launched a
17 Clinical Development Academy that includes offerings
18 of some EBPs.

19 Evidence-based practices are for fidelity
20 to the model or for behavioral health practitioners
21 that require annual educational credits. It may be
22 unobtainable to offer an EV-based practice or to
23 receive training in an evidence-base without a
24 particular offering that is sponsored by -- through
25 an educational opportunity like my office offers.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
90

1 Q Let me just try to understand your last
2 statement.

3 So you're saying that for some providers,
4 unless they have specific educational opportunities,
5 they're not going to be able to provide
6 evidence-based services -- educational opportunities
7 like the ones provided by your office?

8 A No, I'm not saying that.

9 Q Could you clarify? I'm sorry.

10 A It would be more difficult.

11 For example, as attorneys you're required
12 to have continued legal education, but attorney
13 salaries are typically higher than your average
14 position -- your average profession, and so you may
15 be able to pay for those out-of-pocket or you may go
16 to bar-sponsored things where you don't have to pay.

17 Behavioral health professionals are
18 typically some of the lowest paid individuals in the
19 industry, and education -- but they are still
20 required to have annual or bi-annual educational
21 credits, which in an evidence-based practice that
22 may be unobtainable based upon their annual
23 salaries.

24 So as part of our educational offerings,
25 like the annual System of Care Academy, we'll make

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
91

1 some of those things available and we will cover the
2 cost of those educational credits.

3 Q Do you think that what DBHDD is currently
4 offering is sufficient to meet the needs for
5 training on evidence-based services for behavioral
6 health service providers?

7 MR. PICO PRATS: Objection.

8 A I can't speak to that.

9 Q Why not?

10 A That's a very broad question, and it would
11 require speculation.

12 I do know that individuals that attend our
13 trainings are not just -- there may be individuals
14 employed with the Department of Family and Children
15 Services or the Department of Community Health, or
16 even the Department of Education. What we're
17 offering, if it's sufficient to support an entire
18 state beyond -- just for our agency or even beyond
19 our agency, I can't say.

20 Q Do you know whether any of the services
21 identified in Exhibit 8, in the State supplemental
22 response, Interrogatory 17, are evidence-based
23 practices?

24 A I do not know.

25 Q Are you familiar with the term "functional

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
92

1 behavioral assessment"?

2 A No.

3 I want to correct the last statement.

4 Q Please go ahead.

5 A I believe that Parent Peer Support and
6 Youth Peer Support has obtained EBP status.

7 Q Any other additions?

8 A No.

9 Q Do you know if IC3 is an evidence-based
10 service?

11 A I don't know per se. I do know that it
12 has recently been rated as a promising practice on
13 the Title IV Clearinghouse as of this month.

14 Q Could you describe what a promising
15 practice is as distinct from an evidence-based
16 practice?

17 A I don't know. I just know that for the
18 federal reform under the Family First Act for --
19 there are various -- like I said before, there are
20 hundreds of evidence-based practices. Before
21 eligibility for support, Federal Title IV funding
22 support, those practices have to be submitted to the
23 clearinghouse for review. And those that are
24 approved -- and there are three levels of approval:
25 I think supported, well supported, and promising.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
93

1 Any of those that are reviewed and rated
2 and added to the clearinghouse are available for
3 Title IV-E funding under the Federal Family First
4 Prevention Services Act.

5 Q Okay. Thank you.

6 I just want to make sure the record was
7 clear. Were you familiar with the term "functional
8 behavioral assessment"?

9 A No.

10 Q Do you know whether --

11 MR. HOLKINS: Let me ask that in a
12 different way.

13 Q Are the services identified in the State's
14 supplemental response, Interrogatory No. 17, all
15 available in general education settings in Georgia?

16 MR. PICO PRATS: Objection to form.

17 You can answer.

18 A I don't know.

19 Q Do you know whether these services are
20 available to children enrolled in GNETS?

21 A I don't know.

22 Q And just to make this more specific...

23 To make this specific, do you know whether
24 IC3, or Intensive Customized Care Coordination, is
25 available in general education settings in Georgia?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
94

1 A I'm not clear on the question.
2 Q What I'm trying to assess is whether or
3 not these services are provided in general education
4 settings in Georgia, whether students enrolled in
5 the schools are able to receive the service at that
6 setting.

7 So I'll ask the question again: Is IC3
8 available to students in the general education
9 setting in Georgia?

10 A IC3 is a community-based service, it's a
11 fidelity model, and so meetings could take place
12 inside of schools. Somewhere like a McDonald's in
13 the community, or in the home. It's community
14 based.

15 So when you say inside a school setting,
16 it could happen in a school setting but it's not
17 limited to a school setting.

18 Q Thank you for that distinction.

19 But it can be provided in a school
20 setting, correct?

21 A Correct.

22 Q Do you know whether Intensive Customized
23 Care Coordination can be provided in a GNETS
24 facility?

25 A It's speculative but I don't see why not.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
95

1 Q Do you know whether in fact IC3 is
2 provided in GNET settings?

3 A I do not know.

4 Q What about individualized counseling, do
5 you know whether that service is provided in GNET
6 settings?

7 A I do not know.

8 Q Is that true for this entire list?

9 A Yes, that's true for this entire list.
10 But to provide context, there are a number of
11 factors that go into play in these services.

12 So these are services that are available
13 -- or funded services that are available through
14 some mechanism, public mechanism, whether it's
15 Medicaid, managed care Medicaid, traditional
16 Medicaid, or uninsured.

17 Whether it's available is depending upon
18 available workforce, school personnel, referrals.
19 There are a number of things. But these are
20 services that are active -- that have active funding
21 and can be made available if those factors are in
22 place to facilitate access to these services.

23 Q Are all the services identified in the
24 State's supplemental response, Interrogatory No. 17,
25 core services?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
96

1 A Yes.

2 Q So these are services that community
3 service boards, the safety net providers you
4 described earlier, are required to provide, correct?

5 A I'm hesitant to say yes because the
6 requirement, that they're required to provide it.
7 It's, it's available because it's part of the core
8 benefit package.

9 But individualized needs will determine
10 what is -- individuals' needs will be based upon
11 what is included in their treatment plan,
12 recommendation.

13 Q Right. I'm just trying to understand
14 what's provided, though, by community service
15 boards.

16 Is it accurate that just because something
17 is a core service doesn't mean it's going to be
18 provided by a community service board? Is that
19 true?

20 A In a way, but, again, services are
21 individualized. Every -- what we mean by
22 individualized is when an individual -- when a child
23 is assessed, that assessment will yield certain
24 recommendations to address whatever brought that
25 child to that professional's attention, and that

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
97

1 assessment may recommend all of these services or it
2 may recommend five of these services, but it's all
3 individualized and determined by that behavioral
4 health professional or team.

5 Q What I'm trying to understand, though, is
6 whether providers have capacity, have staff, to
7 provide all core services?

8 MR. PICO PRATS: Objection; speculation.

9 MR. HOLKINS: I'm sorry?

10 MR. PICO PRATS: I'm sorry, I objected to
11 speculation, but you haven't finished maybe.

12 MR. HOLKINS: So let me try that again.

13 BY MR. HOLKINS:

14 Q Do you know whether providers, community
15 service boards, the safety net providers, have
16 capacity to provide all of the core services across
17 the State?

18 A I do not know.

19 Q Do you as part of your duties at OCYF
20 undertake any assessments regularly of provider
21 capacity to deliver DBHDD's core services?

22 A No. Not, not core services.

23 And again just for context and clarity to
24 your capacity question, a number of factors go into
25 place. And so it changes from week-to-week,

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
98

1 especially with the pandemic.

2 And so if, for example, an agency serving
3 a rural community will be considered fully staffed
4 at 10 FTEs, but because of the pandemic they may go
5 a month without, you know, with one or two, then --
6 I mean it's a rolling -- it's a rolling and kind of
7 case-by-case thing.

8 Q We're going to take a break in a second,
9 but I just want to quickly show you another
10 document.

11 MR. HOLKINS: We only have one copy of
12 this one. I apologize. But you can take a
13 look separately, if you need to.

14 (WHEREUPON, Plaintiff's Exhibit-9 was
15 marked for identification.)

16 BY MR. HOLKINS:

17 Q Mr. McKay, you've just been handed what's
18 marked as Exhibit 9.

19 MR. HOLKINS: I'll note for the record
20 this document was not produced to us by the
21 State but rather obtained through DBHDD's
22 public websites and it is titled, "Provider
23 Manual For Community Behavioral Health
24 Providers, For the Department of Behavioral
25 Health & Development and Disabilities," for

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
99

1 Fiscal Year 2022, Quarter One, and the
2 effective date is July 1, 2021 through
3 September 30, 2021.

4 BY MR. HOLKINS:

5 Q Mr. McKay, is this the hard version of the
6 provider manual we've been talking about?

7 A Yes.

8 Q So this is, at least for the effective
9 dates, the document that defines the service
10 requirements for the services identified in the
11 State's supplemental responses, Interrogatory 17,
12 correct?

13 A I'm unsure of the answer to that. But the
14 services listed in No. 17 of the interrogatory
15 should be reflected in this manual. Most of them.
16 If not all of them.

17 Q I'll just ask you real quick, if you could
18 scan the list from the State's supplemental
19 response, Interrogatory 17, and identify any
20 services that you think may not be defined in the
21 provider manual?

22 A I would need to reconcile this against
23 this, because this changes quarterly. And this, a
24 couple, I guess, editions back.

25 MR. HOLKINS: So I'll note that this was

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

100

1 the most recent version of the provider manual
2 that you were able to obtain from the State's
3 public website. I did see another version that
4 was effective as of January this year, but the
5 link to that document is not live.

6 So we would request from counsel
7 production of the current provider manual.

8 And also on a rolling basis any updates do
9 that manual.

10 A The first couple of pages of this document
11 is a listing of the services, similar to this.

12 Q Are you referring to, looks like, Page 3
13 of the document, which describes Child and
14 Adolescent --

15 A Correct.

16 Q -- Non-Intensive Outpatient Services and
17 Specialty Services; is that right?

18 A Correct.

19 Q So for the services that or on this page,
20 Page 3 of Exhibit 9, and also in the State's
21 supplemental response to Interrogatory 17, this
22 document for the effective dates provides DBHDD's
23 standards and requirements for the service; is that
24 not true?

25 A Mostly accurate.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

101

1 Q What part wasn't accurate?

2 A Now, as I mentioned, there are -- have
3 been occasions where there are services that are
4 offered that have not yet made it into the provider
5 manual.

6 Q Right.

7 A And that may be a case of a pilot or --
8 like in the case of Apex, Apex started as a pilot.
9 It was only going to be a one-year program, and then
10 we converted it to an annualized program. And after
11 a couple of years of offering the program felt the
12 need to add it to the provider manual.

13 I don't know if there are other instances
14 of that. So there may be a service on here that's
15 being offered that may not be reflected here.

16 Q Right. I appreciate that.

17 But for the services that are on both of
18 these lists, for instance, Crisis Intervention is in
19 State's supplemental response, Interrogatory 17.
20 It's also on Page 3 of this version of the program
21 manual. Do you see that?

22 A Correct.

23 Q So for that service, this manual describes
24 what the requirements are?

25 A Correct.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

102

1 Q And that's true for the other services
2 that are on both lists?

3 A Correct.

4 Q Thank you.

5 MR. HOLKINS: We're due for lunch, so
6 let's take a break. We're off.

7 THE VIDEOGRAPHER: Off the record at 1:16
8 p.m.

9 (A luncheon recess was taken.)

10 THE VIDEOGRAPHER: We're back on the
11 record at 2:04 p.m.

12 BY MR. HOLKINS:

13 Q Welcome back, Mr. McKay.

14 Before we move on, I just want to circle
15 back to one question from the morning.

16 You had testified earlier that you meet I
17 think on a quarterly basis with staff, leadership
18 staff, from DCH, correct?

19 A No. It's monthly.

20 Q Monthly. Thank you.

21 During those meetings, do you ever discuss
22 strategies to expand the State's use of available
23 Medicaid funds to support behavioral health services
24 in Georgia?

25 A Possibly.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

103

1 Q Could you elaborate?

2 A In the, in the course of discussions for
3 like, say, school-based behavioral health, if we
4 have heard in the community from community providers
5 that they're having trouble with authorizations
6 being -- services being authorized for one of their
7 covered lives, if it was managed care covered lives,
8 or even the length of the authorization and it was a
9 trend, we would mention something like that in the
10 meeting, and there would be some discussion, and
11 there may be some follow-up by DCH and later
12 reporting on what the follow-up -- what the outcomes
13 of the follow-up.

14 Q Is that something that comes up just on a
15 case-by-case basis with providers, or are you doing
16 any kind of systemwide analysis of challenges around
17 Medicaid authorizations?

18 A We don't do a systemwide analysis. It's
19 more anecdotal. You know, we don't have the
20 capacity to analyze that. We have the data that we
21 get through the Center of Excellence, so through
22 Georgia State.

23 But we have regular touchpoints throughout
24 the year with providers, and anecdotally we will
25 share things with DCH. Sometimes it's

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

104

1 individualized. Most of the time it's trends.

2 We've heard, you know, from five
3 providers, some in Central Georgia, some in South
4 Georgia, some in the metro Atlanta area, this is an
5 issue, and so we pass that along.

6 Q And have there been trends identified with
7 respect to specific school-based mental health
8 services?

9 A No.

10 Q I'm sorry?

11 A No.

12 Q So it's more of like an overall problem
13 with getting services authorized by care management
14 organizations?

15 A I wouldn't describe it as a problem, just
16 a normal part of programmatic management.

17 I would also clarify that the codes that
18 our contractors, Center of Excellence would pull, as
19 well as DCH, are community-based mental health
20 codes. And so without us telling them we're in X
21 number of schools, they wouldn't know we're in those
22 schools because they would see just a regular
23 community-based program. For example,
24 individualized counseling, they wouldn't know that
25 it happened in the school setting. They just know

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

105

1 that it happened.

2 MS. COHEN: DCH?

3 THE WITNESS: DCH, correct.

4 BY MR. HOLKINS:

5 Q I just want to make sure I understand, and
6 I'm sorry, I'm struggling a little bit with my
7 hearing right now.

8 So DCH -- is it your testimony DCH
9 wouldn't be able to identify whether, whether a
10 counseling service that was not being able to --
11 that it wasn't getting billed to Medicaid was
12 provided in the school versus another community
13 setting; is that right?

14 A To reframe, you had asked about
15 school-based services available in the school. The
16 way that utilization is tracked is according to
17 specific Medicaid codes. So each of those services
18 that we've discussed would have a Medicaid code.
19 And so if you wanted to see how many times that
20 service has been used, you would pull that code.

21 Q Right.

22 A There's no school specific Medicaid code.
23 It would just be, for example, a hundred individual
24 counseling sessions happened. You would not be able
25 to discern that 10 percent of those happened in the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

106

1 school setting, just that they happened.

2 Q Are there Medicaid codes that are specific
3 to providers of those services, though?

4 A Meaning if a provider has a Medicaid
5 number?

6 Q Right. Are you able to pinpoint per
7 provider the amount of Medicaid services that are
8 being provided?

9 A To a certain degree.

10 Q Could you explain?

11 A For -- in our Apex reporting that we
12 receive through Georgia State, there is tracking
13 according to providers. It's self-reported. And so
14 each month the providers that are contracted for
15 Apex services will provide -- they will provide a
16 report to the Center of Excellence; let's say, for
17 example, we provided 20 individual counseling
18 sessions this month, in this school.

19 There's also a way to not necessarily pull
20 by school through internal IT services, but I think
21 our IT Department can pull to say that X number of
22 services, individual counseling services for the
23 uninsured, SSI Medicaid population, has been
24 provided.

25 But, again, if we didn't have the separate

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

107

1 contract with the Center of Excellence, we wouldn't
2 know the number of children that were managed care
3 covered lives that were served.

4 Q Thank you.

5 Do you know if general education schools
6 in Georgia can enroll as Medicaid providers where
7 they're going directly to CMOs?

8 A I don't know the answer to that.

9 Q Do you know if GNETS facilities can enroll
10 as Medicaid providers where they are billing
11 directly to CMOs?

12 A I don't know the answer to that.

13 MR. HOLKINS: Let's move on to another
14 document.

15 (WHEREUPON, Plaintiff's Exhibit-10 was
16 marked for identification.)

17 BY MR. HOLKINS:

18 Q You've just been handed what has been
19 marked Exhibit 10.

20 MR. HOLKINS: I'll note for the record
21 this is a complete copy of the State of
22 Georgia's Community Mental Health Services
23 Block Grant Application for FY2021.

24 It's publicly available on the website of
25 the U.S. Department of Health & Human Services.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

108

1 As indicated on Pages 2 and 3 of the
2 document, it was submitted by the Georgia
3 Department of Behavioral Health and
4 Developmental Disabilities on 9/3/2019 and
5 revised on 12/3/2020.

6 BY MR. HOLKINS:

7 Q Mr. McKay, have you ever seen this
8 document before?

9 A I've seen a portion of a draft of this
10 document.

11 Q And what portion of the document did you
12 see a draft of?

13 A Flipping through, it looks like it lists
14 the indicators that we're required to submit to
15 SAMHSA annually. So I have a role in updating
16 those.

17 I suspect there may be a child and
18 adolescent section in here. I would have been asked
19 to review that for accuracy.

20 Q Please take a moment.

21 If you're looking for the Child and
22 Adolescent Mental Health section, it starts on Page
23 95.

24 A Yes, I would have been asked to review
25 this portion of this document, but not in its

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

109

1 current form, and I can't say with certainty that
2 what is listed here is the -- contained any edits or
3 comments I would have made.

4 Q And that's all right. I think we can --
5 take your time, but I'm actually going to ask you
6 questions about your contributions but more so just
7 pieces of the document, whether or not you drafted
8 them.

9 A Okay.

10 Q Okay. But let me just ask, stepping back
11 from this specific version, could you describe what
12 your contributions are to these block grant
13 applications?

14 A We're required to annually -- it's like a
15 two-year application cycle, but we're required to do
16 annual submissions. And in some instances those
17 submissions are updates to say we're on track or off
18 track and give reasons as to why we may be off
19 track.

20 And then the other instances we are
21 submitting a new application for additional funding
22 and telling the Federal Government what we intend to
23 do with those funds.

24 A lot of it may be a continuation,
25 speaking for my office, continuation of what was in

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

110

1 the previous two-year cycle. Sometimes there are
2 modifications to that.

3 I will have a role in, in saying what
4 programs we would like to continue or modify based
5 upon learnings and outcomes, experience over the
6 previous grant cycles.

7 Q Thank you.

8 So I want to direct you specifically to
9 Page 172 of the document. I put a sticky there.
10 And the title for Page 172 is "Child and Adolescent
11 Mental Health - Plans" -- excuse me. "Child and
12 Adolescent Mental Health - Plans to Address Unmet
13 Needs."

14 Do you see where I am?

15 A Yes.

16 Q Okay. Do you make any contributions to
17 this section of the application?

18 A There's possibility, yes.

19 Same answer as before. This is a -- this
20 is pretty much a standard document that has existed,
21 you know, prior to my tenure, and from -- and we're
22 asked for periodic updates. There's not a whole lot
23 that changes from plan to plan.

24 And if I did make edits or whether it's
25 retractions or additions or word modifications, I

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

111

1 can't say that this is the final draft of what I
2 submitted.

3 Q That's fine.

4 Give me one second.

5 So I want to direct you to on Page 172,
6 the third full paragraph that starts "As
7 summarized."

8 Do you see that paragraph?

9 A Yes.

10 Q So this excerpt reads: "As summarized in
11 the data and Regional Advisory Council
12 recommendations, there is a need to expand
13 availability of core and specialty services to
14 children and adolescents, particularly in rural
15 areas of the state."

16 Is that statement consistent with your
17 observations and experience?

18 A Yes. Overall -- overall, yes.

19 The Regional Advisory Council, I'm unclear
20 as to which regional advisory council is being
21 referenced here.

22 Q What's the basis -- sorry.

23 Go ahead.

24 A So, in general, the statement about
25 increasing access to services, especially in rural

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

112

1 areas, generally applies.

2 This is based upon a recommendation by the
3 Regional Advisory Council. I don't know what that
4 is.

5 Q Okay. So setting aside the Regional
6 Advisory Council recommendations, what's the basis
7 for your opinion that there's a need to expand
8 availability of core and specialty services to
9 children and adolescents, particularly in rural
10 areas of the state?

11 A Just generally speaking, according to
12 trends and general statistics, which have actually
13 increased during the pandemic, but so many children
14 -- I think I last saw one in -- for a long time it
15 was one-in-five children require -- had a behavioral
16 health diagnosis that required services.

17 I know that that statistic has increased
18 during the pandemic, but just realizing the ratio of
19 children that need those services, there's always
20 the need to increase access to try to meet that
21 demand.

22 Q And what specific data do you look at that
23 informs this assessment?

24 A SAMHSA would be one organization that puts
25 out data on a regular basis. I can't call attention

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

113

1 to one specific data point, but I would look at
2 maybe SAMHSA. I would look at Mental Health
3 America.

4 There are annual kind of report cards that
5 are put out nationally. You tend to kind of look at
6 those things.

7 Q And just to be clear, I'm asking about
8 data that you look at that is specific to the need
9 to increase availability of community behavioral
10 services in Georgia. What data do you look at for
11 that?

12 A It would be the things that I've
13 mentioned.

14 Q Okay, thank you.

15 In your view, what community-based
16 behavioral services in particular does the State
17 need to increase availability of to serve children
18 with behavioral health conditions?

19 MR. PICO PRATS: Objection.

20 A I would say access to services generally,
21 probably, based upon individualized needs, whether
22 it's individual counseling, whether it's family
23 counseling, whether it's group counseling. Those
24 would be determined during the assessment phase by
25 behavioral health professional.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
114

1 Q I'm not asking, though, about the specific
2 needs of individual children but rather specific
3 gaps in the system.

4 Are you aware of the need for the State of
5 Georgia to increase any specific community-based
6 behavioral service?

7 A Not specifically, no.

8 Q So to give a concrete example, does
9 Georgia need to expand availability of IC3?

10 MR. PICO PRATS: Objection.

11 A Generally speaking -- I can't speak to
12 specifics, but general speaking, it's, it's
13 generally accepted that Georgia, along with every
14 other state in the country, has a professional
15 health care shortage. There are places in the State
16 that have no behavioral health professionals,
17 whether it's psychologists, whether it's a
18 pediatrician.

19 And so the way to combat that is to do
20 things like place clinicians in schools. Because
21 one of the barriers of access to services could be
22 transportation in rural communities.

23 It would be to facilitate the availability
24 of telemedicine. Again, to kind of address
25 transportation kind of concerns.

**DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA**

January 27, 2022
115

1 And so, generally speaking, it's just
2 generally accepted throughout the country in this
3 field that they're workforce in-service challenges.

4 Q I'd like to set aside this document for
5 just a second and show you another one. We'll
6 return to that, though, if you could keep that page.

7 (WHEREUPON, Plaintiff's Exhibit-11 was
8 marked for identification.)

9 BY MR. HOLKINS:

10 Q You've just been handed what's been marked
11 Exhibit 11.

12 MR. HOLKINS: For the record, this is
13 GA00006288.

14 BY MR. HOLKINS:

15 Q Mr. McKay, this is an email chain in which
16 you're both a sender and a recipient from 2018.

17 Please take a minute to review the
18 document.

19 A Okay.

20 (Witness reviews exhibit.)

21 Q I'd like to direct you to the email that
22 you wrote. It starts at the bottom of Page 1, on
23 May 11, 2018, at 12:38 p.m., and continues on to
24 Page 2 of this document.

25 | You write in that email: "We would like

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

116

1 for this service to be available statewide."

2 Do you see that text?

3 A Yes.

4 Q By "this service," you're referring to
5 IC3, correct?

6 A A complicated answer. It requires some
7 context.

8 So some brief history is that -- so to
9 move away from the name IC3 but more so what this
10 service is, is high-fidelity wraparound, and
11 historically this service predates my tenure at
12 DBHDD, but it started as a demonstration project.
13 This is a federally funded program, started as a
14 demonstration project, and then it moved to a
15 federal waiver that was supported by two different
16 federal fund sources that sunset.

17 Some years back, because we were aware
18 that those fund sources would run out, there was a
19 request to the Department of Community Health, DCH,
20 to submit a state Medicaid plan, a waiver, state
21 Medicaid plan amendment, to add this service to
22 state Medicaid plan for eligibility for Medicaid
23 reimbursement to sustain it when those federal fund
24 sources ran out.

25 It had different names along the way. You

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

117

1 see references to CBAY, but, again, it kind of goes
2 back to the names associated with the federal fund
3 sources.

4 The legacy of this is IC3, which is not
5 exactly the same thing, but it is a high-fidelity
6 wraparound service.

7 And this chain is referencing to the
8 enrollment process that would have needed to be
9 undertaken to move them from that old kind of
10 framework infrastructure to this new IC3 framework
11 infrastructure, which required some reenrollment and
12 classification of the providers that were
13 participating.

14 Q Thank you very much for that explanation.

15 So is it fair to say that high-fidelity
16 wraparound as used in this document is a precursor
17 to the IC3 service that currently exists in the
18 State of Georgia?

19 A Yes.

20 Q And is it also fair to say that at time
21 you wrote this email, high-fidelity wraparound was
22 not available statewide?

23 A No, that is not correct. It was a
24 transition from its previous payor source to its
25 current payor source.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
118

1 Q The question, though, is: Was
2 high-fidelity wraparound available in every region
3 of the state at the time that you wrote this email?

4 A Yes.

5 Q There were providers of high-fidelity
6 wraparound in every region of the state in 2018?

7 A No. There are two CMEs, according to the
8 model, care management entities, that provide this
9 service statewide.

10 So there are statewide focused provider
11 organizations, which requires from an IT system
12 perspective, provider enrollment perspective, a
13 difference for these two particular programs from
14 how the system is set up, because providers are
15 enrolled and approved based upon particular
16 catchment areas.

17 These particular providers, their
18 catchment areas are statewide. So in making that
19 transition, this was the nuts and bolts kind of
20 conversation that we were undertaking to make sure
21 that the systems were in place when it transitioned
22 to this new payor source.

23 Q Are there still just two CMEs providing --

24 A Currently.

25 Q -- IC3?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
119

1 A Yes, there are two CMEs providing IC3.

2 Q And that covers the full state?

3 A Yes. We have an active procurement right
4 now to expand but currently there are only two CMEs.

5 Q To be clear, do those CMEs have an office
6 in every region of the state where IC3 is available?

7 A I don't know that. They have a presence
8 in every region of the state. I don't know if they
9 have a physical office in every region of the state.

10 Q Do you undertake any analysis of whether
11 or not the two CMEs currently offering IC3 in the
12 State of Georgia are meeting the need for the
13 service statewide?

14 A We do receive regular reports, yes.

15 Q And so you analyze whether or not those
16 providers are meeting the need for IC3 in every
17 region of the state?

18 A I can't answer that question.

19 Q Why not?

20 A It's -- I don't know the answer to it.

21 Q Okay.

22 A But to reframe, there are data points,
23 various categories, and we measure according to
24 those data points.

25 I don't know a need for a particular

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

120

1 county or community. I know I can see that we're
2 tracking -- say one of the metrics would be did a
3 child and family team meeting occur, and I can see
4 how many of those occurred.

5 And, for example, a metric would be CANS,
6 a Child and Adolescent Needs Assessment. I can see
7 if the CANS was administered and enrollment and
8 periodically during the period of enrollment,
9 whether it happened every 90 days or 45 days.

10 And trend-wise, aggregate level, because
11 we don't receive individualized records, would be
12 for the number of children that were enrolled that
13 received the CANS, did they have any kind of -- did
14 the CANS assessment demonstrate improvement over
15 time.

16 So, yes, we receive regular data, but I
17 can't answer the question about your needs question.

18 Q Why did you -- why are you seeking now to
19 expand the number of providers of IC3 in the state?

20 A So the providers do provide statewide
21 services. Is that service even throughout the
22 state? No.

23 We have learned that there may be benefits
24 to adding some additional CMEs in South Georgia.
25 They're less services that we have seen for various

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
121

1 factors. And so having some providers physically --
2 well, office physically in, that being their home
3 catchment area, we are hoping to expand to see if
4 there's improvement there.

5 Q And how did you identify South Georgia as
6 an area where there may be a need for additional
7 IC3?

8 A Through our reports, looking at trends
9 over time. There are density areas where services
10 were -- where referrals were made and where
11 individuals are actually enrolled. And on those
12 particular maps, there are some that are very dark,
13 meaning high density, high enrollment. There are
14 some that are middle shade, and then there are some
15 that are light. And there are some that are white,
16 meaning that there were no enrollments, or if there
17 were enrollments, there were no -- there were no
18 referrals -- excuse me.

19 There may have been no referrals, or if
20 there were referrals, there were no enrollments,
21 because families do have a choice in whether they
22 want to enroll in the service.

23 Q Where do you obtain those maps with
24 shading showing the different levels of enrollment?

25 A Through the Center of Excellence. So

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

122

1 Georgia State.

2 Q And that's specific to IC3?

3 A Correct.

4 Q Do you receive those reports for any other
5 community-based behavioral health services available
6 to children and adolescents?

7 A We receive a map as a part of Apex but
8 it's a different kind of map.

9 Q It's not specific to any individual
10 service, right?

11 A Correct. It's just a map that shows where
12 the Apex program has a presence.

13 Q Okay. So you don't receive a map like
14 that for, for instance, crisis intervention?

15 A No.

16 Q For counseling?

17 A No.

18 Q What about behavioral health assessments,
19 do you receive a map for that?

20 A No. I would only receive a map for that
21 for the programs that we have contracted with for --
22 through the Center of Excellence.

23 Q Okay.

24 A And specifically the only two that I've
25 mentioned of the three would be Apex and IC3.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

123

1 Q And just to finish this line, do you
2 receive any reporting from the Center of Excellence
3 or someone else regarding utilization of IC3 within
4 GNETS facilities?

5 A No.

6 Q Do you know if anyone is assessing
7 utilization of IC3 in GNETS facilities?

8 MR. PICO PRATS: Objection.

9 A So it's not school specific. It would be
10 just generally, by region or county or by referral
11 source. And none of the referral sources are GNETS
12 specifically.

13 Q I guess I'm asking you to step beyond like
14 the data that comes to you in your current role at
15 DBHDD. Based on your coordination with other state
16 agency partners, do you know whether other agencies
17 for the State of Georgia are analyzing, tracking
18 utilization of IC3 by GNETS enrolled students.

19 MR. PICO PRATS: Objection.

20 A I do not know that.

21 Q If you wanted to discern the answer to
22 that, who would you ask?

23 A So my first inclination is that they would
24 not be able to do that without -- because they would
25 need to go to the Center of Excellence, and the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

124

1 Center of Excellence would need to request our
2 permission.

3 But schools at the local district or local
4 education authority level, I don't know what data
5 they track. They may know that a child has been
6 enrolled in IC3 and they may track that. Those
7 metrics may or may not align with the data that we
8 track, but I don't know if it exists.

9 So I imagine if you were to ask if, you
10 know, someone was tracking IC3 enrollment, then
11 maybe you could ask the local school districts if
12 they're tracking it.

13 Q Can we return to Page 172 of the block
14 grant.

15 You can set aside the email. Thank you.

16 A You said 172?

17 Q So picking up where we left off, in that
18 same paragraph, in the middle of Page 172, it reads:
19 "There are some areas where there are limited
20 providers. In addition, there has been the need
21 identified to provide services closer to where
22 children live in their homes and communities to
23 avoid more costly and intensive out of home
24 treatment."

25 Do you see that?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
125

1 A Yes.

2 Q Do you agree with the title that there has
3 been the need identified to provide services closer
4 to where children live in their homes and
5 communities to avoid more costly and intensive out
6 of home treatment?

7 A Yes.

8 Q What's the basis for that belief?

9 A If you think about services on a -- there
10 are a couple of different ways to assess them.

11 There are tiered services. So Tier 1 --
12 and this may vary from agency to agency. And some
13 -- our agency is a three-tier model, especially for
14 Apex.

15 Tier 1, universal prevention, all
16 children.

17 Tier 2 would be those identified at risk.
18 You may suspect that there is some behavioral health
19 deficiencies, but they haven't been identified. So
20 you would start services to, to determine or not if
21 there is a formal diagnosis.

22 And then Tier 3 would be intensive
23 services, youth that have been you identified as
24 having a behavioral health diagnosis.

25 So that's one framework.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

126

1 The other framework would be, laying on a
2 scale from left to right, prevention services, early
3 intervention, intervention, late intervention.

4 You -- from a general practice, generally
5 speaking perspective, historically before some
6 services that have come online over the last couple
7 of years, services would be introduced at that Tier
8 3, when students were already in an intensive stage
9 and needed a diagnosis -- they would be assessed and
10 a diagnosis would be there; or late intervention,
11 meaning psychiatric residential treatment
12 facilities, crisis stabilization.

13 It is better, in my opinion, from a
14 general practice, to try to introduce services
15 earlier on in the continuum. So universal Tier 1 or
16 prevention, early intervention.

17 And so keeping that in mind, that would
18 align with earlier identification access to try to,
19 if possible, bend the acuity curve by not waiting
20 for -- to connect with students when they're much
21 sicker.

22 Q Thank you very much for that.

23 So one of the goals in focusing on
24 prevention-based services is to keep children closer
25 to their homes and families; is that correct?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

127

1 A That's correct, yes.

2 Q So skipping to the next paragraph on the
3 same page, the first line reads: "DBHDD will work
4 with other child-serving agencies and partners to
5 increase the number of youth with SED receiving
6 services from public mental health system as well as
7 increase the number of youth receiving services in
8 their homes and communities."

9 Do you see that?

10 A Yes.

11 Q What efforts are you undertaking
12 personally to work with other child-serving agencies
13 and partners to increase the number of youth
14 receiving services in their homes and communities?

15 A There are standing or regular meetings
16 individually between the child-server agencies,
17 between DBHDD and DCH.

18 We have now installed a liaison at the
19 Department of Education part of the time, and they
20 participate in a standing Apex meeting.

21 There were regular standing meetings prior
22 to the change in leadership at the Department of
23 Family and Children Services, so DFCS.

24 We participate on task forces in meetings
25 that are led by the Department of Early Care and

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
128

1 Learning. So that would be an example of just
2 direct interagency participation.

3 Then there's something called an
4 Interagency Directors Team that includes all of the
5 child serving agencies that meets monthly. IDT is
6 the organization that created the state System of
7 Care plan. DBHDD provides the funding for that
8 infrastructure. So we support and encourage
9 collaboration between child-serving agencies that
10 way.

11 And then there is something called the
12 Local Interagency Planning Teams required by the
13 Georgia statute. We provide administrative support
14 for that function as well.

15 And in the statute it is required --
16 child-serving agencies are required to participate
17 in those local meetings.

18 Q Thank you.

19 Do you think your efforts working across
20 child-serving agencies to increase the number of
21 youth receiving services in their homes and
22 communities have been successful?

23 MR. PICO PRATS: Objection.

24 A Yes.

25 Q Why?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
129

1 A From the -- so -- so yes.

2 Is it consistent? Like the data ebbs and
3 flows, but, for example, Apex enrollment increased
4 year over year prior to the pandemic. It has
5 flattened out with the pandemic.

6 I think that is true of many of the -- for
7 the data points that I've seen, it was -- there were
8 year over year increases. But when the pandemic
9 hit, some of those have flattened or in some cases
10 decreased.

11 In terms of having a System of Care state
12 plan, there were years where we did not have a
13 System of Care state plan, and through our funding
14 to support that administrative framework there was a
15 plan that was created and implemented, and there is
16 a current plan that's being implemented.

17 And so without our efforts, we feel that
18 there would be no plan, no System of Care state plan
19 in place, as it was prior to those efforts.

20 Q So returning to Page 172 of this document,
21 the last full paragraph on the page, under the title
22 "Use of Evidence-based Practices and Promising
23 Practices," do you see that section?

24 A Yes.

25 Q The first line reads: "The ability to

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

130

1 keep youth in their communities and to improve their
2 functioning is directly related to the types of
3 services and supports made available to them and
4 their families."

5 Is that statement consistent with your
6 observation and experience?

7 A The first sentence?

8 Q Yes.

9 A Yes.

10 Q We talked a bit about evidence-based
11 practices earlier. I want to circle back to that to
12 ask just a couple of brief follow-up questions, and
13 this is with respect to the second sentence in that
14 same paragraph, which reads: "DBHDD will continue
15 to train its workforce on evidence-based and
16 promising practices."

17 I'm hoping you can identify for me the
18 specific evidence-based practices that the DBHDD
19 trains its workforce on?

20 A I cannot. I am not a clinical person. I
21 have clinicians on my team, and clinicians within
22 the Division, and there are certain practices that
23 have been deemed evidence-based and show outcomes.
24 So I lean on my team for those recommendations.

25 And then, as mentioned earlier, with the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

131

1 child welfare reform there are evidence-based
2 practices that are being evaluated at the federal
3 level, that are then added to a clearinghouse. So
4 that determines -- that has some determination on
5 what, what EPBs are funded and sustainable in
6 communities to be provided by providers.

7 Q I understand that. I'm just trying to
8 figure out what practices your office trains on
9 currently, and I guess my next question is, who
10 would be the right person on your staff to ask about
11 that?

12 A I would say Dr. Adell Flowers would be
13 best positioned to answer that question about my
14 office.

15 She leads that work. She curated
16 development of Clinical Developmental Academy, and
17 selected the EPBs that are offered under that.

18 She leads the planning for the annual
19 System of Care Academy and the EBPs that are offered
20 as a part of that.

21 Q Thank you.

22 Please turn to Page 173. I'd like to
23 direct you to the section entitled "Improve
24 Functioning of Youth with SED."

25 And that paragraph starts: "DBHDD focuses

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

132

1 on service provision that leads to improved
2 functioning of youth with SED. The goal is to
3 maintain youth in their homes, schools and
4 communities and divert them from criminal justice
5 and higher levels of care. The use of High-Fidelity
6 Wraparound services with Care Management Entity
7 Services provide for a coordinated approach to
8 planning and acquiring along with a family and youth
9 the services and supports that are needed to
10 maintain a youth who is challenged with SED in their
11 communities and to improve their functioning at
12 home, in school and in their community."

13 Do you see IC3 as important to helping
14 DBHDD achieve its goal of maintaining youth in their
15 homes, schools and communities and diverting them
16 from criminal justice and higher levels of care?

17 A Yes.

18 Q Is that -- I'm sorry. Go ahead.

19 A I just said yes.

20 Q Okay. Is that true generally for the
21 services that we discussed earlier that were
22 identified in the State's supplemental response to
23 Interrogatory No. 17?

24 A Generally speaking, yes.

25 Clarification: IC3 is again more of a

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

133

1 framework that utilizes several of the services that
2 were listed.

3 So, so yes.

4 Q Thank you for that clarification.

5 At the present time, has your office set
6 forth any specific goals for the expansion of IC3?

7 A Yes.

8 Q What are those goals?

9 A To expand by two CMEs, and for those two
10 CMEs to have a home based in South Georgia.

11 Q Do you have specific targets as to how
12 many additional children you hope to serve through
13 that expansion?

14 A No.

15 Q Has your office set goals with respect to
16 expanding any of the other services identified in
17 the State's supplemental response, Interrogatory No.
18 17?

19 And feel free to refer back to it if you
20 need to. That's Exhibit 8.

21 A I'm sorry, someone said something.

22 Can you restate the question?

23 Q Has your office set goals with respect to
24 expanding any of the other services identified in
25 the State's supplemental response to Interrogatory

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

134

1 No. 17?

2 A Yes. To Parent and Youth Peer Support.

3 Q And what is the target that your office
4 has set for expanding that service?

5 A That every Tier 1 provider will enroll in
6 that service and hire a certified -- at least one
7 parent certified peer specialist and one youth
8 certified peer specialist, to be able to provide
9 those services in their various catchment areas.

10 Q Why did you create that goal?

11 A This -- when we amended the state plan to,
12 to create IC3, we also amended the state plan to
13 create these services, which had traditionally been
14 complimentary as a part of the waiver. So we
15 created standalone services. And to build
16 utilization and access across the state, providers
17 would need to enroll in the service, and once
18 they're enrolled in the service, they then go hire
19 individuals that meet that criteria, that have lived
20 experience.

21 That has not gone well since we amended
22 the state Medicaid plan, and I don't remember
23 exactly, but it's been a couple of years.

24 So to encourage providers to enroll in
25 that and to hire these individuals that have been

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

135

1 demonstrated to be very important to resiliency and
2 long-term recovery, we have set goals, like I said,
3 for each Tier 1 provider to hire at least one CPSP
4 and one CPSY; our 2 -- Tier 2 plus providers to do
5 the same; and then our family support organizations,
6 which the acronym for those are FSOs, to hire.

7 Q Thank you.

8 And just to complete the line of
9 questioning, are there any other services identified
10 in the State's supplemental response to
11 Interrogatory No. 17 where your office has set
12 specific goals for expanding the service?

13 A Not that I'm aware of.

14 Q I just have one more question before we
15 turn away from this document and take a short break.

16 This statement on Page 173 that I read
17 earlier, the statement is "the goal is to maintain
18 youth in their homes, schools and communities and
19 divert them from criminal justice and higher levels
20 of care."

21 In your view, does that statement apply to
22 maintaining children in general education settings
23 and avoiding placement in GNETS?

24 MR. PICO PRATS: Objection.

25 A I lost the paragraph -- or the sentence.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

136

1 Q Sure. This is under "Improve Functioning
2 of Youth with SED," and Page 173.

3 A Okay.

4 Q You want me to restate the question?

5 A Redirect my attention to the sentence and
6 if you could restate the question.

7 Q The sentence I called your attention to
8 was the second sentence under that heading, and the
9 sentence reads: "The goal is to maintain youth in
10 their homes, schools and communities and divert them
11 from criminal justice and higher levels of care."

12 And my question to you is, whether that's
13 consistent with the goal to divert children from
14 placement in GNETS?

15 MR. PICO PRATS: Objection.

16 A I can't answer that. This is generally
17 speaking. It would apply to all children.

18 Q Would it apply to GNET settings?

19 A It would apply to, to all children.

20 Essentially, to increase access to
21 services before they become most acute and try to
22 maintain them in their communities, along with their
23 families, who, who at times also require supports,
24 like family therapy or parent peer support.

25 Q Do you view GNETS as a higher level of

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

137

1 care?

2 A I would be speculating. I don't know. I
3 have not analyzed -- I'm not aware of there being
4 different levels of care within school settings, so
5 I can't answer that.

6 MR. HOLKINS: Let's take a break.

7 Would 10 minutes be all right? Thank you.

8 THE VIDEOGRAPHER: Off the record at 3:04
9 p.m.

10 (A recess was taken.)

11 THE VIDEOGRAPHER: We're back on the
12 record at 3:20 p.m.

13 BY MR. HOLKINS:

14 Q Mr. McKay, I just have one more question
15 for you about the exhibit that's in front of you,
16 which is the block grant, Exhibit 10.

17 Going back to the goal I was directing to
18 you earlier, on Page 173, do you view GNETS as a
19 community placement --

20 MR. HOLKINS: Let me rephrase.

21 Q Do you view GNETS as a community setting
22 for purposes of this goal?

23 MR. PICO PRATS: Object.

24 A Yes, I can't -- I can't speak to that.

25 Q Because -- I'm sorry, go ahead.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

138

1 Is that because you don't have knowledge
2 regarding GNETS facilities?

3 A Yes, I would say that's a true statement.

4 I don't know what happens within the GNETS
5 setting, and I don't know how -- I don't know
6 specifically in those levels of care that I
7 mentioned where GNETS fits in that.

8 I know that schools generally have a
9 climate rating and schools try to align the climate
10 ratings with those three levels of care that I
11 mentioned earlier: Prevention, intervention --
12 well, prevention, at risk, Tier 2. And then Tier 3,
13 intensive level.

14 But I don't know how GNETS reconciles with
15 that.

16 Q So do you not know whether GNETS services
17 are just one tier or all three tiers?

18 A No. Specifically I do not know.

19 Q Would you describe GNETS facilities
20 geographically as existing in children's home -- in
21 their home communities?

22 A I can't answer that because I'm not
23 familiar with who's enrolled in the GNETS --
24 particular GNETS program, and where that program
25 would be in reference to where they live. I don't

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

139

1 know.

2 Q Are students enrolled in GNETS eligible
3 for Apex services?

4 A I think it would depend on the location of
5 the program.

6 The way that the schools are selected, the
7 department, DBHDD, does not direct that this school
8 or that school becomes a part of the Apex program.

9 The funding goes to our enrolled providers
10 that are approved, either as community service
11 boards or because they were successful offerors in
12 the procurements to expand the program, and those
13 providers as a part of that procurement process
14 would have produced a letter of support from the
15 local school superintendent and would have included
16 in their plan a list of schools that they would
17 utilize the funds to go into.

18 So the decision-making would be between
19 the community providers and the local school
20 districts based upon the needs that they determine.

21 Q I'd like to show you another document.
22 You can put aside that block grant.

23 (WHEREUPON, Plaintiff's Exhibit-12 was
24 marked for identification.)

25

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

140

1 BY MR. HOLKINS:

2 Q You've just been handed what's been marked
3 Exhibit 12. Please take a moment to review the
4 document.

5 (Witness reviews exhibit.)

6 A Yes.

7 MR. HOLKINS: For the record, this is
8 GA00653209, and was produced by the State of
9 Georgia to the United States in this matter.

10 The title of this document is "FAQ for
11 Agency Leadership."

12 BY MR. HOLKINS:

13 Q Mr. McKay, this is an FAQ regarding the
14 Apex program that was developed for DBHDD
15 leadership, correct?

16 A I'm uncertain.

17 I have seen a version of this document but
18 I do not think this is the final draft of this
19 document.

20 Q Well, let's focus specifically on Pages 1
21 and 2. At the bottom of Page 1, carrying on to Page
22 2, the FAQ that starts: "Can Apex clinician serve
23 GNETS students?"

24 Do you see that?

25 A Yes.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
141

1 Q Does the answer to that question
2 accurately capture DBHDD's policy with respect to
3 Apex services being received by GNET students?

4 A No.

5 Q What's different?

6 A So the model of Apex is to serve all
7 three-tiers. Providers receive funds to serve
8 students in all three tiers within a particular
9 school.

10 So if it is Tier 1, prevention; Tier 2, at
11 risk; Tier 3, intensive services.

12 My understanding of the GNETS population
13 is that they could possibly fit in Tier 2 but most
14 likely they're going to fit in Tier 3.

15 Apex is not funded to just serve Tier 3
16 settings. Again, the model is -- because students
17 churn between the various tiers, from prevention, to
18 maybe at risk, back to prevention. They may have a
19 crisis which is Tier 3, and then they go back to
20 prevention.

21 So the model is to serve all three tiers.

22 And so far GNETS programs, according to my
23 understanding, that are embedded within the school,
24 yes, that student could be served as part of the
25 Apex program, just like any other student in the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
142

1 school.

2 If it is a GNETS program that is located
3 on a campus, I would say the same is true.

4 If it is a standalone GNETS program, that
5 model does not align with the Apex program.

6 Q Thank you for that clarification.

7 And that decision was made by DBHDD to
8 draw the lines in that way; is that correct?

9 Let me just try that again.

10 So this is DBHDD's policy with respect to
11 the implementation of the Apex program, correct?

12 A I would say -- so to reframe that
13 question, this model, three-tier model, in some
14 cases four-tier model, is generally accepted
15 practice within this field. So DBHDD adopted the
16 three-tier model; we didn't create it.

17 In adopting the three-tier model and
18 utilizing that as policy, then, yes, you could say
19 it is DBHDD policy to apply the three-tier model,
20 but we did not create that.

21 Q But you, DBHDD, did ultimately design
22 Apex? It chose the three-tier model, correct?

23 A Correct.

24 Q And in so choosing, it precluded students
25 enrolled in GNETS, at a standalone GNETS facility,

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

143

1 from receiving Apex services, correct?

2 A I don't think that's an accurate
3 statement.

4 Q Are students who are currently enrolled in
5 GNETS, at a standalone GNETS facility, currently
6 able to receive Apex services?

7 A That -- the standalone GNETS program
8 doesn't align with the model.

9 So if an Apex provider only -- it would
10 have to be a part of the overall programming.

11 MS. COHEN: Excuse me?

12 A It would have to be a part of the overall
13 program, as determined by the provider and the
14 school leadership, whether it's the superintendent
15 or the director of student support services,
16 supported by a member of, you know, MOU and some of
17 the things that you have mentioned.

18 Q So in theory if --

19 MS. COHEN: Just a minute. I'm just
20 hearing from some of my colleagues they can't
21 hear, that the computer needs to be unmuted.

22 MR. HOLKINS: Can you guys hear us now?

23 MS. TAYLOE: Yes, thank you.

24 MS. COHEN: Thank you. Sorry to
25 interrupt.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
144

1 BY MR. HOLKINS:

2 Q So in theory, if GNETS were to provide
3 services across all three tiers, would that address
4 DBHDD's concern as to providing Apex services --

5 MR. PICO PRATS: Objection.

6 Q -- to GNETS facilities?

7 MR. PICO PRATS: You can answer.

8 A Yes, that would align with the model.

9 Q Let me just reask the question so it's
10 clear on the record.

11 If all three tiers of services were
12 available in GNETS facilities, would GNETS
13 facilities be eligible to receive Apex services?

14 MR. PICO PRATS: Same objection.

15 A Yes. But DBHDD would defer to the
16 provider and local school leadership to include that
17 in their proposal for funding support.

18 Q Ultimately, those applications from
19 providers to enroll in the Apex program are received
20 by DBHDD, correct?

21 A Correct.

22 Q And DBHDD makes the determination as to
23 which providers will be enrolled?

24 A Correct, based upon some scoring criteria.

25 Q I'd like to show you another exhibit, 13.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

145

1 (WHEREUPON, Plaintiff's Exhibit-13 was
2 marked for identification.)

3 BY MR. HOLKINS:

4 Q You've just been handed what's been marked
5 Exhibit 13.

6 MR. HOLKINS: For the record, this is
7 GA00582723.

8 BY MR. HOLKINS:

9 Q It's a series of emails, which you are
10 both the sender and a recipient.

11 Please take a moment to familiarize
12 yourself with the document, Mr. McKay.

13 A Okay.

14 (Witness reviews exhibit.)

15 A I've reviewed it.

16 Q Thank you. I'd like to direct your
17 attention to the email that starts at the bottom of
18 Page 3 and continues on to Page 4 of this document.

19 This is an email from Kimberly Dempsey,
20 dated June 13, 2016. It was addressed to Stephanie
21 Pearson and you. Correct?

22 A So bottom of Page 3 to Page 4?

23 Q Yes. It starts on Page 3 and carries to
24 Page 4.

25 A Yes.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
146

1 Q Just for the record, Kimberly Dempsey is
2 identified in this email as an employee of the
3 Office of Children, Young Adults and Families at
4 DBHDD.

5 Did she report to you at the time?

6 A No.

7 Q So Ms. Dempsey writes: It was brought up
8 at the August RIA -- RAI --

9 MR. HOLKINS: Sorry, let me try this
10 again.

11 Q Ms. Dempsey writes: "It was brought up at
12 the Augusta RIAT on Friday that the local GNETs
13 school has requested Serenity to come via GA APEX.
14 Can they go to a GNETs school? I would think that
15 the very nature of a GNETs school would be able to
16 handle mental health situations but I guess
17 'treatment' isn't done."

18 First, just for clarity, is Serenity a
19 community service board?

20 A Yes.

21 Q And what is RA -- excuse me -- RIAT? What
22 does that mean?

23 A Regional interagency Action Team. That
24 are now defunct.

25 Q And what's your understanding of Ms.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
147

1 Dempsey's statement that treatment isn't done in
2 GNET schools?

3 A I can't speak to Ms. Dempsey's point.
4 What I can say about Ms. Dempsey is that she is a
5 joker.

6 Q Let's go to the first page of the
7 document, in which you email Ms. Dempsey and
8 Stephanie Pearson on 6/27/2016. Correct?

9 A Correct.

10 Q So in this email you write: "We do not
11 want Serenity expanding to the GNETS school."

12 Why did you write that?

13 A When this -- when I sent this email I was
14 three years in my tenure at DBHDD. It would have
15 been the end of the first year of the DBHDD -- of
16 the Apex program. The data that we have referenced
17 throughout this deposition, many of the systems that
18 were in place did not exist at this point in time.
19 And we were -- one, I was still learning, very much
20 in a steep learning curve in terms of the status of
21 things.

22 And then, two, according to the systems
23 that ultimately came in play, not a free-for-all,
24 schools reaching out directly to providers and us
25 not being able to track utilization, spending, any

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
148

1 of those things, that sort of request, which
2 ultimately came to be, would need to go through a, a
3 superintendent level or district level person.

4 So just reading this and thinking about my
5 mind's state, three months into my tenure there, and
6 ultimately the things that transpired as the program
7 evolved over time, I would say I was referencing to
8 having some systems in place and that that program,
9 as I understood it at the time, did not align with
10 the Apex model, the three-tier Apex model.

11 Q You wrote in this email, and this is under
12 No. 4 in your list: "There's a good chance GNETS
13 will be sued by DOJ. Thus, we need to be extremely
14 careful and steer clear of any potential
15 entanglement."

16 What informed your opinion that there was
17 a good chance GNETS would be sued by DOJ?

18 A I don't remember.

19 Q And what did you mean by steering clear of
20 any potential entanglement?

21 A Having definitions of -- for those three
22 tiers; how the fidelity to the program, how it would
23 be managed; processes in place for accepting schools
24 into the program.

25 And then the other consideration was, as I

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

149

1 understood it, providers may have -- provider
2 organizations may have had direct contract with
3 particular GNETS programs, so GNETS program to the
4 provider, and I didn't want entanglement of mixing
5 DBHDD supported funds with funds that may have
6 already been received through a direct contractual
7 relationship.

8 Q On that point I'd like to go back to the
9 exhibit we were talking about earlier, which was the
10 FAQ document, Exhibit 12.

11 At the bottom of the first page, this
12 document reads: "Also GNETS students are already
13 receiving intensive therapeutic services along with
14 their educational piece."

15 Do you see that line?

16 A Yes.

17 Q Do you know for a fact whether GNETS
18 students are receiving already intensive therapeutic
19 services not through Apex?

20 A I do not know.

21 Q Just to go back to the Apex model, you
22 referenced DBHDD selected a three-tier model,
23 correct?

24 Could DBHDD have selected a different
25 model that did not require three tiers of service?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

150

1 A Possibly. But to give you some clarity,
2 relying on expertise at the Center of Excellence, it
3 was a contract that I inherited but I continued it,
4 because there are national school-based associations
5 and efforts, and national annual conference, and
6 based upon those best practices, and at the time US
7 DOE supported multitier systems and supports, the
8 three-tier model aligned with school climate-related
9 things that was happening on a national, state and
10 regional level.

11 Some MTSS models have four tiers, but I
12 don't -- I'm not sure if Georgia has adopted the
13 four-tier, but many of them have three tiers. And
14 when this program was born, it was born with the
15 three-tier model, and we've continued the three-tier
16 model.

17 Q If DBHDD wanted to abandon the Apex model
18 to permit --

19 MR. HOLKINS: Strike that.

20 BY MR. HOLKINS:

21 Q I'd like to show you another document.

22 (WHEREUPON, Plaintiff's Exhibit-14 was
23 marked for identification.)

24 BY MR. HOLKINS:

25 Q You've just been handed what's been marked

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

151

1 Exhibit 14?

2 MR. HOLKINS: For the record this is
3 GA00636018.

4 BY MR. HOLKINS:

5 Q Mr. McKay, please take a moment to review
6 the document.

7 (Witness reviews exhibit.)

8 A I've reviewed this.

9 Q These are two -- a series of emails
10 between you, Deana Farmer and Layla Fitzgerald, in
11 February and March of 2019 regarding Apex and GNETS.

12 Let me first ask, who is Deana R. Farmer?

13 A She was the former program lead for Apex
14 at the Georgia State Center of Excellence.

15 Q And who is the current program lead for
16 Apex at the Georgia Center for Excellence?

17 A Dimple DeSai.

18 Q How long has Mr. DeSai been in that role?

19 A I'm not sure. She's had various roles as
20 part of Apex. I can't say for sure when she assumed
21 the lead role.

22 Q So in your email dated February 28, 2019,
23 to Deana Farmer and Layla Fitzgerald, you ask: "Are
24 any Apex programs still collaborating with
25 standalone GNETS programs? If yes, which ones?"

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
152

1 Do you see that?

2 A Yes.

3 Q What was the reason for this outreach?

4 A I don't remember exactly, but reading this
5 email, I would conclude that I was asked this
6 question, and I asked the people who I thought would
7 know the answer to the question or could get the
8 answer to the question.

9 Q Do you recall who asked, who asked you
10 this question?

11 A I do not recall who asked this question.

12 Q Do you recall what you did with the
13 information you received?

14 A I do not recall.

15 Q Do you recall the answer that you received
16 to that question, "Are any Apex programs still
17 collaborating with standalone GNETS programs?"

18 A Not specifics, no.

19 Q And do you know right now, sitting here
20 today, whether any Apex programs are collaborating
21 with standalone GNETS programs?

22 A No, I don't.

23 I would say the second part to my answer
24 for that would be as a part of responding to
25 interrogatories, there may have been a question

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

153

1 about that, and there may have been an answer to
2 that, but I don't recall what the programs, if any,
3 were listed. And so I couldn't specifically state,
4 you know.

5 Q How would you go about answering that
6 question now?

7 A I probably would ask the same question at
8 the Center of Excellence, to query the providers and
9 wait on a response.

10 Q In the reporting that you receive about
11 Apex from the Center of Excellence, does the Center
12 of Excellence identify whether GNETS facilities are
13 participating in the Apex program?

14 A Some of the reports that I receive from
15 the Center of Excellence are school listings that
16 list the name of the school that providers are
17 embedded into. I wouldn't know if a program is a
18 GNETS program unless it was in the name -- provided
19 in the school name that was on the list, XYZ GNETS.

20 And I don't recall any of the lists that I
21 have reviewed recently -- or over time I don't
22 recall seeing any explicit reference on the list to
23 a GNETS program.

24 Q I'd like to go back to the email we were
25 discussing earlier. I think it's Exhibit 13, the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
154

1 2016 email.

2 Are you able to pull that one back?

3 You write in No. 3 that: "Apex is not
4 designed for the level of care that GNETS students
5 require."

6 Do you see that?

7 A Yes.

8 Q Do you still believe that statement to be
9 true?

10 A If GNETS programs align with Tier 3, and
11 only Tier 3, then that level of care does not align
12 with the Apex model.

13 Q But just to make sure I understand, if
14 GNETS students require Tier 3 services and Apex
15 provides Tier 3 services, they're not at a different
16 level of care, are they?

17 A I don't know the answer to that. I don't
18 know the question that's being asked.

19 Q What I'm trying to ascertain is whether
20 Tier 3 services available through Apex are the same
21 Tier 3 services that you think are available through
22 GNETS?

23 A I don't know the answer to that. But what
24 I do -- my reframe or clarification would be that
25 Apex is a three-tier model, all three tiers.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

155

1 Providers are required to provide all three tiers:
2 1, 2, and 3.

3 And so if a GNETS program is a Tier 3,
4 then that three-tiered model would not align with a
5 single-tier school setting.

6 Q Even if there's overlap in the services
7 that are provided, correct?

8 A I don't understand that question.

9 Q I understand your point that Apex is a
10 three-tier model and that GNETS, as you understand
11 it, is not.

12 My question, though, is whether there's
13 still overlap in that Tier 3 between the services
14 that would be readily available at GNETS and the
15 services provided through Apex?

16 A I can't answer that. I don't know.

17 Q Just above No. 3, No. 2 you write: "Any
18 conversation related to collaboration needs to
19 include a discussion about DOE kicking in funding."

20 Do you see that line?

21 A I do.

22 Q You're talking about collaboration between
23 Apex and GNETS, correct?

24 A Can you repeat the question?

25 Q What is the collaboration that you're

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

156

1 referencing in No. 2?

2 A I don't remember exactly.

3 Q DOE is a reference to the Georgia
4 Department of Education, correct?

5 A Yes.

6 Q What did you mean when you wrote there
7 would need to be a discussion about DOE kicking in
8 funding?

9 A I don't remember. Again, this was very
10 early in my tenure, and at that point in time there
11 was no record keeping in place for this program,
12 other than the number of providers at that time had
13 been contracted to provide this service.

14 So in speculating, seeing No. 2, that
15 would have been coming from a place of someone that
16 was doing his due diligence and trying to get a
17 sense of the status of the program, while
18 implementing systems.

19 Q Looking back to the FAQ which is Exhibit
20 12, back in the bottom of the first page, do you see
21 the sentence that reads: "A student would be," in
22 quotes, "'double dipping' if they received both
23 GNETS and Apex funds and this is not allowed"?

24 A I see that, yes.

25 Q Is that an accurate characterization?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

157

1 A I don't know.

2 Q Do you know --

3 MR. HOLKINS: Is that an accurate
4 characterization?

5 Q Do you know how GNETS services are funded?

6 A Not specifically, no.

7 Q What about generally?

8 A Generally, I believe I learned through
9 those standing meetings with the state level contact
10 that the programs receive annualized funding
11 according to some grant model.

12 Looking at this document, I believe this
13 was addressed, but I don't think in this form that
14 has been presented that this would have been
15 published.

16 Q Is there any published statement of
17 DBHDD's policy with respect to Apex and GNETS?

18 A There is an FAQ on our website currently,
19 that I think this may be a genesis of where it
20 ultimately was published, yes. But it should be
21 available on the DBHDD website.

22 MR. HOLKINS: We will look for it on the
23 website. If we're not able to locate it,
24 counsel, we'll request a copy.

25

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

158

1 BY MR. HOLKINS:

2 Q So we have more to discuss about Apex, but
3 I'd like to go back and just -- so I'm going to read
4 from what I believe is the DBHDD website you
5 reference. I don't have a copy of it to share with
6 you, so I'm just going to ask whether this is
7 consistent of your recollection of what the website
8 says. If you don't recall, that's fine and I
9 understand.

10 The website, as I view it, reads: "Apex
11 service cannot be provided in private chartered
12 schools, GNETS standalone facilities, private
13 schools or homeschools/sliders public schools."

14 Is that consistent with your understanding
15 of DBHDD's policy with respect to Apex and GNETS?

16 A Yes.

17 MS. COHEN: Patrick, if we could just take
18 five minutes.

19 THE WITNESS: What was that?

20 MR. HOLKINS: Mr. McKay, I like to set
21 aside those documents and show you some new
22 ones.

23 (WHEREUPON, Plaintiff's Exhibit-15 was
24 marked for identification.)

25

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

159

1 BY MR. HOLKINS:

2 Q You've just been handed what's been marked
3 Exhibit 15.

4 MR. HOLKINS: I'll note for the record
5 this is GA00023273.

6 MR. PICO PRATS: Do you have another copy,
7 Patrick?

8 MR. HOLKINS: I'm sorry. Apologies.

9 MR. PICO PRATS: Thank you.

10 MR. HOLKINS: This is Exhibit 15.

11 BY MR. HOLKINS:

12 Q At the top left corner of this document is
13 a name, "The Georgia collaborative ASO."

14 Are you familiar with The Georgia
15 Collaborative ASO?

16 A Yes.

17 Q What is it?

18 A It is the Administrative Service
19 Organization contracted with DBHDD.

20 Q And what does DBHDD contract with The
21 Georgia Collaborative ASO for?

22 A I don't know specifically all of the
23 functions, but one of them would be for approving
24 authorization to services for individuals who are
25 uninsured or on SSI Medicaid.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
160

1 Q This document is titled, "Active Provider
2 By Service" as of 04/11/2019.

3 It's 41 pages long, and it lists services;
4 for instance, AD Opioid Maintenance Treatment, and
5 under each service providers are identified.

6 Is that correct?

7 A Yes.

8 Q So this document would tell you as of this
9 date, 04/11/2019, all the providers enrolled by
10 DBHDD for each specific service in the DBHDD
11 provider manual; is that correct?

12 A No, that is not correct.

13 Q Would you tell me what it does do?

14 A I'm going to -- can we back up --

15 Q Sure.

16 A -- for a second.

17 Can you restate the question for me?

18 Q Oh, yeah, absolutely.

19 So as I understand it, and please do
20 correct me if I misstate it, what this document does
21 is it shows you all of the providers for each of the
22 services listed on the document at the time that the
23 document was generated, which was 04/11/2019. Is
24 that consistent with your understanding?

25 A Yes, with caveats.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

161

1 One, I'm not sure all of the providers are
2 represented here, but the problem with this
3 reporting format that we've referenced earlier is
4 that speaking of Apex, Apex would not be in this
5 document because Apex is more of a programmatic
6 framework that makes the unbundled services
7 available within schools.

8 So it may be reflected here, but I can't
9 say explicitly that the individual core services
10 here are inclusive of, say, Apex.

11 Q Have you seen, if not this specific
12 version, this kind of a report before?

13 A I think I have seen this kind of report
14 before, yes.

15 Q Sorry, go ahead.

16 A Yes. Periodically.

17 Q Is it something that you request?

18 A No, because it's not helpful to my office.
19 It doesn't provide a full picture, as we've talked
20 about, because there is no unique -- for example,
21 for school-based services, there's no unique
22 Medicaid codes for school-based services. It's just
23 community-based services.

24 So I wouldn't know if the individual was
25 served in the home or in the school, because of the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
162

1 gaps in this reporting, which is why we contracted
2 with Center of Excellence in maintaining that
3 contract.

4 And, again, in Georgia, speaking of
5 children, there are very few uninsured children.
6 Most have managed care Medicaid or private insurance
7 or -- and to a lesser degree uninsured, and then
8 they may have SSI Medicaid.

9 So for a complete picture, we contract
10 with a university that has access to those multiple
11 payor sources.

12 Q But if we're going back to your testimony
13 about that earlier, you only receive reporting from
14 the Center of Excellence as to specific programs,
15 correct?

16 A Correct.

17 Q So you don't receive, for instance -- I'll
18 give you a specific example.

19 I'm just flipping to the -- so let's go
20 with Intensive Family Intervention, which is on Page
21 16.

22 A Do you know the number in the -- the last
23 three numbers at the bottom?

24 Q At the bottom it is 23288, and the top
25 it's Page 16 of 41.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

163

1 A Okay. All right.

2 Okay.

3 Q Do you receive in your report anything
4 from the Center of Excellence about how many
5 providers --

6 A No.

7 Q -- are offering intensive family
8 intervention?

9 A No.

10 Q Do you request that information from The
11 Georgia Collaborative ASO?

12 A No. Not -- so let me modify that answer.

13 Not consistently, for the reasons that I
14 have stated previously.

15 There are only a fraction of IFI
16 providers, Intensive Family Interventions -- it's
17 IFI for short. Because there's such a small number
18 of uninsured youth, or those that have SSI Medicaid,
19 they're not allowed providers contracted with DBHDD
20 that provides that service because it's not a lot of
21 children with that fund source that would come
22 through our doors.

23 Many of the IFI providers have enrolled
24 with the Department of Community Health because a
25 large portion of the youth have managed -- Medicaid

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

164

1 managed care. And we do not have access to that
2 reporting.

3 Q This raises an important question for me.
4 Do providers, in order to be reimbursed by care
5 managed organizations for services like Intensive
6 Family Intervention, do they also have to be
7 certified as DBHDD providers?

8 A Yes. That -- I can't speak with
9 certainty to the process, but, yes, there is shared
10 enrollment functions between DBHDD and the
11 Department of Community Health.

12 Q Okay. So that -- so any provider that is
13 billing and being reimbursed by Medicaid for this
14 service, Intensive Family Intervention, would also
15 need to be enrolled as a DBHDD provider?

16 A Yes. That are reflected here, on this
17 list.

18 If a provider was only enrolled with DCH
19 to provide this service, if you're asking if they
20 also must be enrolled with DBHDD but they didn't
21 contract with us in any kind of way, I don't know
22 the answer to that. That would be a question for
23 the DBHDD Office of Provider Enrollment.

24 But this group, I can say with confidence,
25 is enrolled with both DBHDD and DCH because they're

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

165

1 reflected on this list.

2 Q But there may be other providers enrolled
3 through DCH that are not enrolled in DBHDD?

4 A Correct.

5 Q And you said that would be a question for
6 who? I'm sorry?

7 A The Office of Provider Enrollment, DBHDD.

8 Q And is there a specific person you would
9 refer that question to?

10 A The director of that office is Camille
11 Richins.

12 Q I'd like to show you another report, if I
13 can.

14 (WHEREUPON, Defendant's Exhibit-16 was
15 marked for identification.)

16 BY MR. HOLKINS:

17 Q Mr. McKay, you've just been handed what
18 has been marked Exhibit 16.

19 MR. HOLKINS: This document, for the
20 record, is GA00023586, produced by the State of
21 Georgia to the United States in this matter.

22 BY MR. HOLKINS:

23 Q At the top of this report it reads
24 "Provider Report Between 07/01/2017 and 06/30/2018,"
25 and this document also has up at the top left corner

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

166

1 "The Georgia Collaborative ASO."

2 Let me first ask, Mr. McKay, whether
3 you've seen versions of this report before?

4 A I may have seen a version of this, yes.

5 Q And what generally does the report show?

6 A I think it's -- it may be annualized
7 expenditures by program type, by provider.

8 Q Is this for DBHDD enrolled providers?

9 A Yes.

10 Q It includes expenditures broken down by
11 category, correct?

12 A I believe so, yes.

13 Q One of those categories is state funds and
14 the other is Medicaid, correct?

15 A Yes, that's correct.

16 Q How do you use this report when you do
17 receive it?

18 A I don't use this report.

19 Q Why not?

20 A I don't -- it doesn't have enough details
21 for the child and adolescent services, for one,
22 because it does not provide a full picture.

23 For -- again, because of how the system is
24 structured, like I say, going back to use that Apex
25 as an example, in the reporting that we receive from

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

167

1 the COE -- by payor source, there's a part in the
2 report that says, you know, CMO covered lives, and
3 it breaks it down by that CMO. Private insurance,
4 uninsured. The consistently top category is
5 Medicaid covered lives.

6 We don't get any of that data, managed
7 care Medicaid data, in our reporting system.

8 And so looking at this report, to try to
9 manage an Apex program based upon the information
10 that's available in this report would not be helpful
11 because we -- we don't have access to that data
12 system.

13 Q Given what you've just said, that -- let
14 me just break it down. I want to make sure I
15 understand this correctly.

16 I think one thing you said, and a couple
17 of times today, is that many children are receiving
18 services, behavioral health services, in the State
19 funded through Medicaid, correct?

20 A Correct.

21 Q And you don't have access to that data at
22 DBHDD, correct?

23 A Correct.

24 Q And one of your core responsibilities is
25 to write policy relating to behavioral health

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

168

1 services for the State of Georgia; is that correct?

2 A For the public system, yes, that's
3 correct.

4 Q For the public system. Thank you.

5 Do you think that you're able to
6 effectively doing that without being able to access
7 data regarding the large number of children who are
8 receiving behavioral health services funded by
9 Medicaid?

10 A Based upon the information that we get
11 through our COE reporting, yes.

12 Q But from what you told me, the COE
13 reporting is specific to certain programs; is that
14 correct?

15 A It is. But those are frameworks for many
16 of the services that are listed in core services.

17 So Apex itself is not a service; it's a
18 program that makes core services available.

19 So by receiving regular reporting on
20 individual counseling, per se, then, yes, it's a
21 good indicator and lends into how children are
22 accessing that particular service in the State.

23 Q But does it give you the full picture, as
24 you said earlier?

25 A The full picture of all services?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
169

1 Q Of service utilization and access across
2 the system.

3 A I think it provides a good example, yes.

4 Q You said this document, one of its
5 deficiencies is it does not give you the full
6 picture, correct?

7 A This document, correct.

8 Q Right. I'm talking about Exhibit 16.

9 A Correct.

10 Q And if this document did give you the full
11 picture, what would it look like?

12 A It would have the information on it that's
13 in the Apex reporting.

14 Q Okay.

15 A Or the IC3 reporting, or the youth mental
16 health clubhouse reporting.

17 Q Okay, thank you.

18 (WHEREUPON, Plaintiff's Exhibit-17 was
19 marked for identification.)

20 THE WITNESS: Can I take a break?

21 MR. HOLKINS: This is a good time for
22 that, yes.

23 THE VIDEOGRAPHER: Off the record at 4:19
24 p.m.

25 (A recess was taken.)

**DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA**

January 27, 2022

170

1 THE VIDEOGRAPHER: We're back on the
2 record at 4:27 p.m.

3 | BY MR. HOLKINS:

4 Q So, Mr. McKay, I think you were just
5 handed what has been marked Exhibit 17.

6 MR. HOLKINS: I'll note for the record
7 this is GA00157048.

8 | BY MR. HOLKINS:

9 Q And it's a series of emails, some of which
10 you are a recipient, from 2019. The subject of the
11 email is Data Request from Javona Daniels on Mobile
12 Crisis Dispatches to Schools.

13 Do you recall receiving this email?

14 A No.

15 Q Among the individuals on this chain is
16 John W. Quesenberry, correct?

17 A Correct.

18 Q And that's the IT official that you
19 referenced earlier?

20 A Correct.

21 Q Also on this email chain is Wendy Farmer.
22 Do you know who Wendy Farmer is?

23 A Yes.

24 Q Who is she?

25 | A She -- at the time she was one of the -- I

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
171

1 don't remember her title exactly, but she was one of
2 the leads for one of the vendors that made up The
3 Georgia Collaborative ASO.

4 Q So on Page 2 of this document, and this is
5 the email if Wendy Farmer to John Quesenberry, and
6 others, a request is made for data on the number of
7 mobile crisis dispatches to school by region for the
8 last year.

9 Do you see that on Page 2 of the document?

10 A Yes.

11 Q In response, some figures are provided
12 showing total dispatches by region from 01/01/2018
13 to 12/31/2018, correct?

14 A Yes.

15 Q Do you know where this data came from?

16 A I do not.

17 Q Do you know if DBHDD currently tracks, for
18 example, mobile crisis dispatches to schools by
19 region?

20 A No, I don't. We currently track
21 dispatches across the region -- regions. If school
22 is still a data point, I don't know.

23 Q Okay. So if I understand correctly, you
24 still have -- you do have data or track data on
25 dispatches by region, but it's not particularized to

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
172

1 school, as far as you know?

2 A Correct. The mobile crisis services that
3 we have procured and I -- given this date, I'm not
4 sure if the reprocurement happened prior to this
5 date, but I think the data elements, there were some
6 changes from -- prior to the reprocurement of the
7 service.

8 Q So the changes in data collection followed
9 the procurement shift?

10 A Yes.

11 Q And if you were to request data on mobile
12 crisis dispatches by region for the last year, who
13 would you ask for that?

14 A I would ask Beth Shaw.

15 Q Beth Shaw. Thank you.

16 A Correct.

17 Q And is that something that you have
18 requested in the last year?

19 A I've requested -- I think that with the
20 new procurement -- before there were reports that
21 would be generated, electronic copies, there would
22 be emails.

23 With the new procurement, I think we went
24 to a system where the reporting is housed on an
25 electronic database, password protected, and I have

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
173

1 requested a login to that database within the last
2 year, because I stopped receiving reports, and when
3 I asked, where I could not find those, that is what
4 was shared with me, but I do not have a login. I am
5 still waiting on that.

6 Q When did you make that request for login
7 information?

8 A Recently. I would say just maybe November
9 or December of 2021, just prior to the holiday
10 break.

11 (Discussion ensued off the record.)

12 Q Mr. McKay, are you able to -- or were you
13 able to before this --

14 MR. HOLKINS: Let me change this approach
15 here.

16 BY MR. HOLKINS:

17 Q Are you able to access reports showing
18 service utilization by region for other services?

19 A Other than mobile crisis?

20 Q Other than mobile crisis response.

21 A I don't know. A type of report that I
22 would request may be for number of admissions to a
23 PRTF, psychiatric residential treatment facility,
24 that DBHDD paid for, one of our covered lives, but
25 it would not be by region.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
174

1 There are only a few of those in the
2 state. Same for crisis stabilization units, there
3 are only four that serve kids across the state.

4 I guess what I'm getting at, the data
5 doesn't align regionally for some services in the
6 same way it does for this mobile crisis report.

7 Q So if I understand you correctly, for
8 services where there are facilities only in specific
9 regions, then a report by region obviously is not
10 going to tell you as much as this report about
11 mobile crisis services by region because that's a
12 statewide service that's available in every region;
13 is that right?

14 A Correct, and how the information is
15 tracked.

16 Q Okay. But then for other services, like
17 mobile crisis that is, at least in theory, available
18 in every region, which is to say it's not connected
19 to a specific facility, would you expect to be able
20 to request reports that would show by region
21 utilization?

22 A Correct.

23 Q Thank you.

24 I'd like to show you another document.

25 (WHEREUPON, Plaintiff's Exhibit-18 was

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
175

1 marked for identification.)

2 BY MR. HOLKINS:

3 Q Mr. McKay, you've just been handed what
4 has been marked Exhibit 18.

5 MR. HOLKINS: I'll note for the record
6 this is GA00637089. It was produced by the
7 State of Georgia to the United States in this
8 matter.

9 BY MR. HOLKINS:

10 Q You can take a moment to review the
11 document, Mr. McKay, and just let me know when
12 you've finished.

13 (Witness reviews exhibit.)

14 A I've reviewed the document.

15 Q Thank you. Have you seen this document
16 before, any version of it?

17 A I don't recall.

18 Q Based on the file name reported to us by
19 the State, it appears to be a child metrics/matrix
20 from 2019. Does that ring any bells for you?

21 A No. Some of the -- not for the document
22 overall, but some of the metrics within the document
23 would be some of those that we report for our mental
24 health block grant that we discussed earlier, but I
25 don't recall seeing this information in this format.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

176

1 Q Did your office produce anything like this
2 tracking, or at least listing all of the CYA-related
3 metrics across programs?

4 A Not that I recall.

5 Q You can set this aside.

6 (WHEREUPON, Plaintiff's Exhibit-19 was
7 marked for identification.)

8 BY MR. HOLKINS:

9 Q Mr. McKay, you've just been handed what
10 has been marked Exhibit 19.

11 MR. HOLKINS: I'll note for the record
12 this is GA0174388.

13 BY MR. HOLKINS:

14 Q Please take a moment to review the
15 document and let me know when you're finished.

16 (Witness reviews exhibit.)

17 A I've reviewed the document.

18 Q So this is an email exchange from 2016, in
19 which you're both the sender and a recipient.

20 The title of the email is -- or, excuse
21 me, the subject of the email is COE Data Sources.

22 First, let me ask, who is -- I apologize
23 if I mispronounce this -- Ann DiGirolamo?

24 A She is the director of the Center of
25 Excellence.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
177

1 Q Is she still in that role?

2 A She is.

3 Q Do you coordinate directly with her with
4 respect to --

5 A From time to time. She is, for this
6 contract, she is the point of contract and I serve
7 as the point of contract -- point of contact for the
8 contract.

9 Q So she is signing the contract for --

10 MR. HOLKINS: Let me rephrase.

11 Q She's the point of contact for the COE for
12 the contract with DBHDD, and you're the point of
13 contact for DBHDD on that same contract?

14 A Correct.

15 Q So the email on Wednesday, October 19,
16 2016 reads: "Per your request at last week's
17 meeting, below is a list of data that the COE has
18 access to."

19 And there are a series of bullets, all on
20 the first page, identifying data that the COE has
21 access to.

22 Is that accurate?

23 A That the exhibit reflects that?

24 Q Uh-huh.

25 A Yes, correct.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
178

1 Q So my question is -- and I know it's been
2 a few years, this is from 2016 -- how has, if it has
3 at all, the available -- the data that COE has
4 access to evolved?

5 A So if we went bullet by bullet, like we
6 did earlier, the second bullet would not apply as it
7 relates to DBHDD Avatar.

8 And I'm not sure if the ASO-related bullet
9 still applies.

10 Q Can I stop you real quick? What is DBHDD
11 Avatar?

12 A I don't know exactly, but I think it is a
13 -- it's a system that the agency uses but not my
14 office.

15 So I could say that it's a system, but
16 what it does and the information that it contains, I
17 don't know.

18 Q Sorry. You can continue.

19 A The other -- so I'll just talk about the
20 ones that may have changed.

21 Under the third bullet there's a bullet at
22 reference Light - FEP. That is not a -- they don't
23 track -- the COE doesn't track that from my office
24 anymore.

25 Q What is Qualtrics?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

179

1 A It is a system that the COE uses for data
2 collection and tracking.

3 The last bullet on the first page, the
4 longitudinal data for DJJ, we concluded that
5 project. So they don't track that anymore.

6 Q Is there any data that the COE has access
7 to now not reflected on this list?

8 A I don't know. The COE has contracts, to
9 my understanding, with many other child serving
10 agencies. I'm not sure if they have contracts with
11 all, and the contracts they have in place, to what
12 data they have access to.

13 But for the purposes of the programs that
14 we work with them on, it's helpful because of some
15 of the other contracts they have in place to -- for
16 us to track, you know, aggregate level outcomes for
17 our program.

18 Q Is it true that you're able to request or
19 access all of the data that COE has access to that
20 are specific to DBHDD services or programs?

21 A I wouldn't say all. To a certain degree,
22 there is some truth to that.

23 In some cases, because of maybe some of
24 the parameters contractually between, say, a COE and
25 Medicaid, if DCH, Department of Community Health, if

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

180

1 for some reason DCH felt some of the data was
2 proprietary, we may not gain access to it, but that
3 hasn't been an issue for -- it has come up in
4 conversations in terms of proprietary maybe being a
5 concern or a challenge, but it hasn't come into play
6 for Apex, Clubhouse, IC3.

7 Q Have you ever made a request for data for
8 CEO that has been denied because of concerns about
9 proprietary information?

10 A Not that I'm aware of. It has been
11 delayed for vetting but I don't recall an instance
12 where it has been denied.

13 Q And how long does it take to --

14 A It varies.

15 Q I'm sorry.

16 -- to process a request for data?

17 A I'm sorry.

18 It varies.

19 Q What's the top end?

20 A It would be speculation.

21 For -- so we -- for our annual block grant
22 reporting, some of those metrics are only available
23 through DCH. So we make the request via the COE,
24 that makes a request to their client contact at DCH,
25 and that reporting is required annually, I think the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
181

1 1st of November. So we may make that request around
2 August or September each year.

3 Typically, we have the information in time
4 to submit to SAMHSA by 11/1. This year we did not.
5 There was an internal data issue at DCH that
6 prevented us from submitting some of those metrics
7 on time.

8 So I guess that's a long way of saying a
9 couple months on average, up until this past year.

10 Q I'd like to shift gears and talk more
11 about Apex.

12 You can set that one aside.

13 (WHEREUPON, Plaintiff's Exhibit-20 was
14 marked for identification.)

15 BY MR. HOLKINS:

16 Q You've just been handed what has been
17 marked Exhibit 20.

18 MR. HOLKINS: For the record, this is
19 GA00130192.

20 BY MR. HOLKINS:

21 Q Please take a moment to review the
22 document and let me know when you've finished.

23 (Witness reviews exhibit.)

24 A I've reviewed the document.

25 Q This document sets forth the Apex

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

182

1 community provider responsibilities and deliverables
2 for FY21, correct?

3 A Correct.

4 Q And what was your role in developing this
5 document, if any?

6 A I would have reviewed this document and
7 provided -- suggested edits and final approval.

8 Q Is there a new version of this document
9 for FY22?

10 A I'm not sure. It is updated annually for
11 the state fiscal year. I don't recall if we made
12 any edits or changes.

13 Sometimes updates may just be limited to a
14 change in the academic year. So from '21 to '22.

15 Q Can you recall any substantive changes
16 made to this document?

17 A I don't recall, no.

18 Q On Page 2, the first full paragraph in
19 bold are the primary goals of the Apex, Georgia Apex
20 program, which are: "1) Provide for early detection
21 of children in adolescent mental health needs; 2)
22 Increase access to mental health services for
23 children and youth; and 3) Increase coordination
24 between community mental health providers and their
25 local schools and school districts."

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

183

1 Are those still the three primary goals of
2 the Georgia Apex program?

3 A Yes.

4 Q And following that, the next paragraph
5 reads: "The hoped for result will include a
6 reduction of children and youth in Georgia with
7 unmet mental health needs, fewer discipline
8 referrals, and increased academic performance among
9 the children and youth who receive this school-based
10 mental health service."

11 Is that text -- has your office made any
12 changes to that paragraph?

13 A I don't recall.

14 Q Does this document describe the
15 responsibilities that DBHDD has to Apex providers?

16 A Can you restate the question?

17 Q So I know this document describes the
18 responsibilities for providers and provider
19 deliverables for FY21. I'm curious as to whether it
20 also defines DBHDD's responsibilities with respect
21 to Apex providers?

22 A No.

23 Q Is there a document that does that?

24 A This would be an annex to a standard DBHDD
25 contract that would lay all of that out.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

184

1 (WHEREUPON, Plaintiff's Exhibit-21 was
2 marked for identification.)

3 BY MR. HOLKINS:

4 Q Mr. McKay, you've just been handed what
5 has been marked Exhibit 21.

6 MR. HOLKINS: For the record, this is
7 GA01472050.

8 BY MR. HOLKINS:

9 Q At the top right-hand corner of the
10 document it reads "DBHDD - Gateway Behavioral Health
11 Services, FY2021 - Georgia Apex Project (GAP)."

12 Mr. McKay, is this an example of a
13 standard contract between DBHDD and an Apex provider
14 to which a copy of the provider responsibilities and
15 deliverables would be attached?

16 A I'm not seeing where Apex is listed.

17 Q I direct you to the very top of the first
18 page in the right corner.

19 A Okay. I see it.

20 And can you restate the question?

21 Q Oh, sure.

22 Would this be an example of a standard
23 contract between DBHDD and an Apex provider to which
24 a copy of the provider responsibilities and
25 deliverables would be attached?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
185

1 A Yes.

2 Q And is this -- are these contracts
3 standardized across all Apex providers?

4 A Yes.

5 Q Gateway Behavioral Health Services is a
6 community service board, correct?

7 A Correct.

8 Q Does this document describe DBHDD's
9 responsibilities with respect to Apex providers?

10 A I, I think it does, yes.

11 Q Can you point out where it does that?

12 A In each of the paragraphs it talks about
13 -- so the first paragraph talks about this is a
14 contract. So contractually binding between this
15 organization and -- between Gateway and DBHDD.

16 It talks about the period of the contract
17 in the second paragraph; lists information and
18 points of contact; references our policy and
19 provider manual; approved services and locations.

20 Should I continue?

21 Q No. That's good. Thank you.

22 Let's set aside the contract. I'd like to
23 go back to the previous exhibit, which is Exhibit
24 20, the provider responsibilities and deliverables,
25 and specifically the text that we were reading

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
186

1 earlier.

2 I'll read it again for the record.

3 "The hoped for result will include a
4 reduction of children and youth in Georgia with
5 unmet mental health needs, fewer discipline
6 referrals, and increased academic performance among
7 the children and youth who receive this school-based
8 mental health service."

9 Has DBHDD set specific targets for the
10 reduction of children and youth with unmet needs it
11 hopes to achieve through the Apex program?

12 A Officially, no.

13 Q Are there unofficial targets?

14 A Yes. Unofficial target would be that this
15 program is available in all public schools in the
16 State of Georgia.

17 Q What do you think would be necessary to
18 achieve that unofficial goal?

19 A It's a complicated answer. Factors would
20 include funding, available workforce, available
21 qualified workforce.

22 I'll stop right there. Just funding and
23 available and qualified workforce to embed within
24 those schools.

25 Q And by funding, are you specifically

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
187

1 referencing to additional allocations of the State
2 source dollars for the Apex program?

3 A Yes.

4 Q Do you have any sense of what amount of
5 funding would be required?

6 A No.

7 MR. PICO PRATS: Objection.

8 Q Has there been any analysis -- has there
9 been any analysis of the amount of funding that
10 would be required to expand Apex to every public
11 school in Georgia?

12 A No.

13 Q So please turn to Page 4 of Exhibit 20.
14 First off, actually, let's go back one
15 page. I apologize.

16 Page 3, No. 2, Deliverables.

17 Do you see where I am?

18 A Yes.

19 Q What are monthly progress reports?

20 A It is -- it is -- it is part of the
21 monthly package of reports that we receive from the
22 Center of Excellence. It will show by school the
23 number of services provided in that particular
24 month.

25 For example, it may say 20 students had 20

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

188

1 sessions of individual counseling.

2 Q And how is, on the next page, the monthly
3 programmatic report different from the monthly
4 progress report?

5 A I don't know exactly. There are three --
6 really, there are three -- three reports that I
7 receive monthly for this program: One would be the
8 schools with aggregate -- well, one would be the
9 schools list; and then one would be this MPR, that's
10 itemized according to the services; and then one
11 would be aggregate level infographics.

12 And I believe that this information makes
13 up the information that goes into the infographic by
14 the time it comes to me.

15 Q By "this information," you're talking
16 about the information under No. 3 on Page 4 of this
17 document, correct?

18 A Correct.

19 Q And you receive those three reports every
20 month; is that correct?

21 A Correct.

22 Q And the data that's -- the data in those
23 reports is provided by Apex providers; is that
24 correct?

25 A It's provided by -- it's provided by the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
189

1 Center of Excellence to me.

2 Q Okay. Where does the Center of Excellence
3 get that data?

4 A From the providers, Apex providers.

5 Q I want to focus your attention on No. 3,
6 on the bullet "Difference Made?" This is on Page 4
7 of the document.

8 First, I'll read for the record the two
9 sub-bullets: "Of the students served by Apex, what
10 percent required a higher level of care such as
11 short-term crisis stabilization, or extended
12 residential treatment. Include a) monthly and b)
13 aggregate totals."

14 Let's start with that one.

15 What was the thinking behind measuring
16 Difference Made in this way?

17 A The Difference Made is a category that can
18 be difficult to measure, and so you would pick a
19 proxy to be able to measure in hopes of capturing
20 outcomes.

21 So in this particular case, the thinking
22 was that if you're intervening at the prevention
23 tier or the at risk tier or providing regular
24 services through the intensive tier, Tier 3, then
25 there should be -- for those that enroll, there

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
190

1 should bear out in any admissions to higher levels
2 of care, which would be crisis stabilization or
3 PRTF, psychiatric residential treatment facility.

4 Q And did you or someone else at OCYF make
5 the determination to measure Difference Made in this
6 way?

7 A I made this decision.

8 Q Does OCYF track the number of children
9 served by Apex who are ultimately enrolled in GNETS?

10 A No.

11 Q Why not?

12 A We don't have that data. If -- again, if
13 a GNETS program is listed on the monthly program, I
14 would only know it's a GNETS program if it had GNETS
15 in the title.

16 And so, to my knowledge, none of those
17 schools reflect GNETS programs, so we wouldn't have
18 that data.

19 Now, if it's a GNETS program embedded in
20 the school or on the school campus, then my answer
21 would change, but I wouldn't know if that was a
22 GNETS student that had been served as a part of the
23 Apex program.

24 Q Just to make sure I understand, and please
25 do correct me if I misinterpret this, if 10 children

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

191

1 who were being served by Apex were enrolled in GNETS
2 at a standalone facility, you wouldn't have any data
3 that would track that; is that correct?

4 A Correct.

5 MR. HOLKINS: So I actually want to take a
6 brief pause because my colleague mentioned that
7 she needed to run.

8 So let's take a five-minute break so she
9 has the opportunity to do that.

10 MS. HUGHES: Thank you.

11 THE VIDEOGRAPHER: Off the record at 5:07
12 p.m.

13 (A recess was taken.)

14 THE VIDEOGRAPHER: Back on the record at
15 5:20 p.m.

16 BY MR. HOLKINS:

17 Q Mr. McKay, I'd like to present to you
18 another exhibit.

19 (WHEREUPON, Plaintiff's Exhibit-22 was
20 marked for identification.)

21 MR. HOLKINS: I'll note for the record
22 this is GA01749707. It was produced by the
23 State of Georgia to the United States in this
24 matter.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
192

1 BY MR. HOLKINS:

2 Q The title page after the cover page reads
3 "The Georgia Apex Program Annual Evaluation Results,
4 July 2019 - June 2020, Presented by the Center of
5 Excellence for Children's Behavioral Health."

6 Mr. McKay, have you seen this document
7 before?

8 A Yes.

9 Q Can you describe what it is?

10 A It's the annual evaluation of the program.

11 After a full academic year, we will
12 receive a written executive directory and a full
13 slide deck a few months after the academic year has
14 completed, and the Center of Excellence is able to
15 compile and synthesize all of the data.

16 Q Do you have an opportunity to review and
17 provide comment on this document before it's made
18 public?

19 A I do.

20 Q Who else at OCYF contributes comments to
21 this report before it's finalized?

22 A Layla Fitzgerald, Danielle Jones. To a
23 smaller extent Dr. Stephanie Pearson.

24 Q So this is a bit unfortunate because this
25 is not internally paginated. I was hoping to direct

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
193

1 you to the slide that reports services, Tier 3
2 services.

3 This is toward the middle of the
4 presentation. It's a slide that reads: "Individual
5 therapy for indicated students was the most
6 frequently reported Tier 3, or intensive
7 intervention activity."

8 MS. COHEN: Patrick, how many pages from
9 the back? That might be the quickest.

10 MR. HOLKINS: It's quite a few.

11 Q Let's go ahead and step aside from the
12 document here, and I'll just ask you what this
13 document reflects about utilization of the IC3
14 service through Apex providers? Do you recall?

15 A No. I'm not -- I don't know if this
16 reports on IC3.

17 If it does, I don't -- I don't recall.
18 They are two distinct programs.

19 Q Is IC3 available through Apex providers?

20 A IC3 is available to providers across the
21 state, which would include Apex providers.

22 And so if it's referenced in here, the
23 reference probably would be referrals made to IC3,
24 Apex provider -- Apex enrolled youth referred to IC3
25 services.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

194

1 Q For other services that are described in
2 this presentation where -- it's not capturing
3 actually services provided but rather referrals?

4 Does that make sense?

5 A Can you restate?

6 Q Yeah. So I think what you're telling me
7 is that what this PowerPoint may capture for IC3 are
8 referrals made for the service by Apex providers.

9 Is that accurate?

10 A Correct.

11 Q Is that true for other services beyond
12 IC3?

13 A Possibly. Like -- so specialty -- so I
14 consider Apex a specialty program. IC3 is a
15 specialty program. Youth Mental Clubhouses would
16 also be a specialty program.

17 In instances where youth may benefit from
18 out of school time, then there may be a referral
19 from -- to like a clubhouse. So they may go from
20 the school day Apex to a clubhouse for some period
21 of time until their parents are home or guardian is
22 home.

23 The same could be said for IC3.

24 Q Do you know if this PowerPoint includes
25 any information about the number of students who

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

195

1 transitioned out of GNETS enrollment into Apex?

2 A No. I don't recall, but I don't -- well,
3 let me restate.

4 I don't recall seeing that or remembering
5 seeing that in this PowerPoint.

6 Q Is that something, to your knowledge, that
7 either the COE or DBHDD tracks?

8 MR. PICO PRATS: Objection.

9 A Not to my knowledge, that that exists or
10 that we track it.

11 Q Just to make sure the record is clear,
12 what I'm asking is whether or not DBHDD tracks the
13 number of children who transition out of GNETS into
14 Apex?

15 A No, we do not.

16 Q And do you know if the COE tracks that?

17 MR. PICO PRATS: Objection.

18 A I do not know that.

19 Q Set this aside.

20 Has the Center of Excellence published any
21 other reporting in connection with the Apex program
22 and/or results for July 2019 to 2020?

23 A Possibly.

24 Q You don't know?

25 A I said possibly.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
196

1 Q I'm sorry?

2 A Possibly.

3 Q And what could that reporting be?

4 A Well, the COE is an academic institution,
5 and so they would submit for journals, scientific
6 journals, learnings about the program. They would
7 submit for posters at national school-based
8 conferences.

9 Those two things come to mind. And so
10 some of those submissions may include references or
11 outcomes reported as a part of this program.

12 Q Does Commissioner Fitzgerald provide input
13 to you directly regarding the Apex program?

14 A No, she does not.

15 Q Do you provide any information to
16 Commissioner Fitzgerald regarding the Apex program?

17 A Ad hoc, when asked.

18 Q What kind of information do you provide
19 when asked?

20 A It would be for an update. Maybe some
21 information in the evaluation, like you need -- you
22 served at a particular point in time or over the
23 year. Or when the annual evaluations become
24 available, I may share those with her.

25 Q How would you describe Commissioner

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
197

1 Fitzgerald's responsibilities with respect to the
2 Apex program?

3 A It would be similar to all programs that
4 are sponsored or supported by DBHDD.

5 Q And what would be your responsibilities
6 with respect to all programs under DBHDD?

7 A To lead the agency at an executive level;
8 to have some general familiarity with the programs,
9 how programs may be performing, funded by the
10 agency; and have general familiarity with trends
11 associated with programs and services supported by
12 the agency.

13 Q Is Commissioner Fitzgerald involved in
14 making funding decisions with respect to the Apex
15 program?

16 A No.

17 Q Is Monica Johnson involved in those
18 decisions?

19 A No. Not to my knowledge.

20 And I will clarify my previous answer
21 about Commissioner. Not to my knowledge.

22 MS. COHEN: Do you need a break?

23 THE WITNESS: Just sitting here for a long
24 time. No, I'm fine. We can continue.

25 MR. HOLKINS: I know it's been a long day

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

198

1 and I really appreciate you bearing with us.

2 BY MR. HOLKINS:

3 Q I'd like to go back just really quickly to
4 this exhibit, which is 22.

5 Why does DBHDD outsource to the Center of
6 Excellence the production of this report?

7 A Because this is a specialty program, and
8 the data -- the individualized -- the itemized data
9 that we receive by contracting in this way is not
10 available through -- internally from DBHDD.

11 Q Would DBHDD be able to produce by itself a
12 report like this?

13 A I can't speak to that.

14 (WHEREUPON, Plaintiff's Exhibit-23 was
15 marked for identification.)

16 BY MR. HOLKINS:

17 Q You've just been handed what's been marked
18 Exhibit 23.

19 MR. HOLKINS: For the record, this is
20 GA00655695.

21 The title of the document is "Apex Year
22 End Survey 2019-2020."

23 BY MR. HOLKINS:

24 Q Mr. McKay, have you seen this document
25 before?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
199

1 A I believe so. Some version of it.

2 Q And how does your office use the Apex year
3 end survey?

4 A This is a survey that is administered by
5 the Center of Excellence, that is used to help
6 produce the annual reporting. The slide deck, the
7 executive -- annual executive summary.

8 Q Did you have an opportunity to provide
9 feedback on this report before it was used by the
10 Center of Excellence?

11 A Can you clarify the question?

12 Q Sure. I'm curious as to whether or not
13 the Center of Excellence consults with you with
14 respect to this year end survey?

15 A Yes.

16 Q And what, what is your involvement with
17 this year end survey?

18 A My team would review this before it goes
19 out to see if any changes are needed for the year in
20 terms of rewording of questions, adding questions,
21 maybe removing questions based upon things learned
22 over the course of the academic year.

23 It is finalized, it is released to
24 providers, and the results are then included in the
25 annual deck and the annual executive summary.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

200

1 (WHEREUPON, Plaintiff's Exhibit-24 was
2 marked for identification.)

3 BY MR. HOLKINS:

4 Q Mr. McKay, you've just been handed what
5 has been marked Exhibit 24.

6 MR. HOLKINS: For the record, this is
7 GA00656683.

8 BY MR. HOLKINS:

9 Q Please take a moment to review the
10 document and let me know when you've finished.

11 (Witness reviews exhibit.)

12 A I've reviewed the document.

13 Q Thank you.

14 Can you turn to Page 3 of the document. I
15 want to direct your attention to entry No. 8, "DOE
16 data sharing - potential protocol."

17 Do you see that?

18 A Yes.

19 Q Are you familiar with this DOE data
20 sharing protocol?

21 A I'm familiar with reference to it, but it
22 does not exist.

23 Q And what was being contemplated at this
24 point?

25 A The way that we receive information

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
201

1 currently on the program, providers provided to the
2 COE, so it's self-reported.

3 We have inquired, explored ways for it to
4 be automated, I guess is the best word, where the
5 COE would have direct access to DOE database,
6 metrics elements to be determined.

7 My recollection of that is that it has
8 stalled along the way. We haven't been able to
9 complete that task.

10 Q Is the task still active or has it been
11 abandoned?

12 A I don't know the status of it currently.

13 MS. COHEN: This would be through COE?

14 A To be determined. It could be an arranged
15 -- it could have been an arrangement that we
16 discussed with COE and DOE, or a combination of
17 DBHDD, COE and DOE.

18 Q And what kind of data would this
19 arrangement have allowed COE to access through the
20 Georgia Department of Education?

21 A I don't --

22 MR. PICO PRATS: Objection.

23 A -- recall specifically. But it would have
24 been -- I think it would have been aggregated --
25 aggregate level. There may have been some

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
202

1 discussions about unidentified, if that's the right
2 word, information.

3 There have been several versions of this
4 and so those versions have been, can we do this?
5 And if we can, how would it work?

6 Considering HIPAA and FERPA
7 considerations. And as I started with, it has
8 stalled.

9 I think most recently there was a meeting
10 on this some time last fall. I don't know the
11 status of those talks.

12 Q I understand. What need is this protocol
13 attempting to fill?

14 A I would say vetting of the data because
15 right now the difference would be -- the data that
16 we have is self-reported by the providers, about
17 their experiences within schools, versus the data
18 coming through official school collection practices.

19 I think it's a way to -- one of the
20 considerations was to be able to have kind of a
21 balance for the self-reported data and compare it to
22 what is reported through official DOE mechanisms.

23 Q Just to be clear, this exhibit that you're
24 looking at now, which is Exhibit 24, these are
25 essentially updates from a regular meeting that you

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
203

1 have with the COE regarding Apex? Is that accurate?

2 A Yes. This looks like notes from a -- just
3 a standing meeting.

4 Q Is this a monthly meeting?

5 A There are a few different meetings. I'm
6 not sure -- most are monthly. There may be three
7 meetings. I participate as my schedule allows.

8 And to clarify, as I mentioned earlier,
9 there's a meeting with just DBHDD and the COE, and
10 there's a meeting that DOE participates in, and I
11 don't know which meeting this is according to these
12 notes.

13 (WHEREUPON, Plaintiff's Exhibit-25 was
14 marked for identification.)

15 BY MR. HOLKINS:

16 Q Mr. McKay, you've just been handed what
17 has been marked Exhibit 25.

18 MR. HOLKINS: For the record, this is
19 GA00003148.

20 BY MR. HOLKINS:

21 Q Please take a moment to review the
22 document and let me know when you've finished.

23 (Witness reviews exhibit.)

24 A I've reviewed the document.

25 Q Thank you. This is an email exchange

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

204

1 between Commissioner Fitzgerald and Garry McGiboney,
2 from 2019.

3 First, let me ask you, do you know who
4 Garry McGiboney is?

5 A I do.

6 Q At the time of this email, he's identified
7 as a deputy superintendent of -- bless you.

8 Are you okay?

9 A Yes.

10 Q So, Doctor, this is -- Dr. McGiboney is
11 identified in this email as an employee of the
12 Georgia Department of Education.

13 Do you know if he's still employed at the
14 Georgia Department of Education?

15 A I do, and he is not.

16 Q I'd like to direct you to Mr. McGiboney's
17 email to Commissioner Fitzgerald, dated February
18 12th, 2019, and specifically the line in this email
19 where he, he says: "We have heard APEX counselors
20 say the same thing - that their work is more
21 effective in PBIS schools because the school climate
22 endorses a system of care within the school."

23 Do you see that text?

24 A Yes.

25 Q What is PBIS? Do you know what that

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
205

1 stands for?

2 A Positive behavioral interventions and
3 supports.

4 Q Is this statement consistent with your
5 observation and experience?

6 MR. PICO PRATS: Objection.

7 MR. HOLKINS: I'll rephrase.

8 BY MR. HOLKINS:

9 Q In your experience and in your opinion, is
10 the Apex program most effective in PBIS schools?

11 MR. PICO PRATS: Objection again.

12 A We have heard that it is.

13 This -- PBIS leads to the multitiered
14 systems and supports that I mentioned earlier. It
15 is when -- and I'm a layman in understanding it, but
16 the concepts are PBIS is all about school climate.
17 When -- and schools are not -- State DOE cannot
18 mandate schools to be PBIS implemented schools.
19 They have to voluntarily adopt it.

20 So for the schools that have PBIS in place
21 and Apex in place, those schools, from a trend
22 standpoint, annually tend to have better outcomes
23 than the ones that do not have PBIS and maybe have
24 an Apex program, or no school-based mental health
25 program.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
206

1 Q And what kind of outcomes are you
2 referring to where this trend would be apparent?

3 A Attendance, higher rates of attendance,
4 lower rates of disciplinary referrals or suspension,
5 expulsions, that sort of thing.

6 Q Would fewer referrals to higher levels of
7 care also be an outcome where you would expect PBIS
8 schools to perform better?

9 A I don't know the answer to that specific
10 question.

11 (WHEREUPON, Plaintiff's Exhibit-26 was
12 marked for identification.)

13 BY MR. HOLKINS:

14 Q Mr. McKay, you've just been handed what's
15 been marked GA 0 -- excuse me. What's been marked
16 Exhibit 26.

17 MR. HOLKINS: And, for the record, this is
18 GA00672136. The title of the document is "Apex
19 COE/DBHDD Team Meeting 6.9.20."

20 BY MR. HOLKINS:

21 Q Mr. McKay, is this another summary of one
22 of the meetings we were just talking about between
23 DBHDD and COE with respect to Apex?

24 A It appears to be, yes.

25 Q I want to direct your attention to Item

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

207

1 No. 5, which describes "School/Provider
2 Relations/Politics: that are barriers to
3 implementing the model."

4 Do you see that text?

5 A I do.

6 Q Do you think there are political barriers
7 to expanding the Apex model?

8 A Can you restate the question?

9 Q I'm curious to get your thoughts about
10 whether there are, as this summary might suggest,
11 political obstacles to implementing the Apex model?

12 A I don't know what this is in reference to.

13 Q Did you participate in this meeting on
14 6/9/20 between COE and DBHDD with respect to Apex?

15 A I don't remember if I was present in this
16 meeting.

17 Q Regardless of whether you recall
18 participating in this meeting, do you believe there
19 are political obstacles to expanding the Apex model?

20 MR. PICO PRATS: Objection.

21 A I can't speak to it.

22 I do know when there is a -- when there's
23 support from a superintendent or deputy
24 superintendent or director of school services, when
25 there's support from a principal, when there's a

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
208

1 champion that's involved, the programs tend to do
2 better and thrive.

3 The referrals are being made. The
4 students are enrolled in services.

5 Over time, it took us a while to get
6 there. There are cases where there was not a school
7 champion, and there may not have been referrals
8 being made.

9 And so I can't speak to the politics or
10 this specific statement, but I would attribute
11 what's described here as to some of those relational
12 things that can facilitate a productive program or
13 hinder a potential program.

14 Q Have you encountered school
15 superintendents who are not interested in the Apex
16 program?

17 A I have not had much interaction with the
18 school superintendents, outside of the procurement
19 process and reading a letter of support asking for
20 funding for the provider to bring that program to
21 their district or to increase schools supported by
22 that funding within their district.

23 Q Are you aware of any resistance at the
24 school district level anywhere in the State to the
25 implementation of Apex?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

209

1 A I can't speak to that.

2 Q Is it because you're not aware?

3 A I hear things but I have not received any
4 direct communication from a superintendent or school
5 district.

6 Q And what have you heard?

7 A I don't want to speculate because I don't
8 know if it's true or not.

9 Q What information did you receive regarding
10 potential opposition to Apex implementation in those
11 conversations?

12 MR. PICO PRATS: Objection.

13 A I have heard, and I don't recall
14 specifically who said it, but there are -- there's a
15 stigma associated with receiving behavioral health
16 services, and some of that is generational.

17 But I have heard that some school
18 leadership, school district leadership, has stated
19 that they didn't need services because their
20 students didn't have those problems.

21 I cannot state if that was exactly made or
22 a true statement. It was not said directly to me,
23 and I don't recall -- it may have been a group
24 setting where people were gossiping and that
25 statement was made.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
210

1 Q Does your staff conduct outreach to school
2 districts separate and apart from receiving
3 applications to enroll in the Apex program?

4 A My direct staff may participate in
5 meetings with school districts, especially given
6 their more recent roles.

7 Layla Fitzgerald is a liaison. As I
8 mentioned earlier, she splits her time between my
9 office and the DOE office, the home child supports,
10 and Danielle Jones splits her time between a
11 specific SAMHSA funded grant called Project Aware
12 that focuses on three county -- three school
13 districts in Georgia.

14 Q Who leads those meetings with the school
15 districts? Is it your staff, COE, or someone else?

16 A I can't speak to that.

17 Q And could you describe, since we were
18 talking about this again, Layla Fitzgerald's
19 responsibilities to DOE in her role as behavioral
20 health liaison?

21 A I don't remember the specifics. It's
22 outlined in an MOU between the agencies, but to
23 summarize, it is for learnings, information sharing,
24 coordination, planning.

25 Q And when was that MOU implemented?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
211

1 A I think she started in September,
2 September 1st of 2020.

3 Q And has that role, her serving in that
4 role, yielded, from your perspective, any changes in
5 coordination between your office and DOE?

6 MR. PICO PRATS: Objection.

7 A I'm more informed in terms of the
8 initiatives that they're planning internally and
9 considering.

10 Through that coordination, when schools
11 shut down as a part of the pandemic, the Governor
12 and state superintendent created a task force, and I
13 was appointed to one of those task forces, whose
14 goal was to meet, develop recommendations for safely
15 reopening schools.

16 I think that appointment was yielded by
17 way of a working relationship that we were
18 continuing to build with DOE.

19 Q Does that coordination between DOE and
20 your office through this behavioral health liaison
21 role relate to the GNETS program?

22 A No.

23 (WHEREUPON, Plaintiff's Exhibit-27 was
24 marked for identification.)

25

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
212

1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what's
3 been marked Exhibit 27.

4 MR. HOLKINS: I'll note for the record
5 this is GA00150195. It was produced by the
6 State of Georgia to the United States in this
7 matter.

8 BY MR. HOLKINS:

9 Q This is an email chain in which you
10 participated from 2020. The title is, or the
11 subject is Apex Schools' List.

12 I want to direct you to your email on
13 August 20, 2020, on the first page, where you write:
14 "There are two lawsuits pending against the State
15 regarding GNETS. Your agency may be impacted. Just
16 wanted to make sure you are aware of the reason for
17 the call."

18 First, just let me ask, who is Samantha
19 Boatwright, who is a recipient on that email?

20 A She is a point of contact at one of the
21 provider organizations.

22 Q Which organization?

23 A The Georgia Pines Community Service Board,
24 Georgia Pines, and it appears that she is -- at the
25 time was the Georgia Apex program coordinator.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
213

1 Q What did you mean when you wrote that her
2 agency may be impacted by the lawsuits pending
3 against the state regarding GNETS?

4 A I don't remember exactly.

5 Q Do you believe that Apex providers may be
6 impacted by the pending lawsuits against the State
7 regarding GNETS?

8 MR. PICO PRATS: Objection.

9 A Can you restate the question?

10 Q Do you believe that Apex providers will be
11 impacted by the pending lawsuit against the State
12 regarding GNETS?

13 MR. PICO PRATS: Same objection.

14 A Impacted in that my thinking probably at
15 the time is from something I saw, is that that
16 provider may be called to testify.

17 Q Is there any other impact that you think
18 that this lawsuit may have on Apex providers?

19 A No, none that I'm aware of.

20 Q Okay.

21 MR. HOLKINS: This one should be fairly
22 quick.

23 (WHEREUPON, Plaintiff's Exhibit-28 was
24 marked for identification.)

25

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
214

1 BY MR. HOLKINS:

2 Q You've just been handed what has been
3 marked Exhibit 28.

4 MR. HOLKINS: For the record, this is
5 GA00250659.

6 BY MR. HOLKINS:

7 Q At the top of the document is the title:
8 "Question: 40% Productivity - How will this be
9 implemented? How much does each Apex contract
10 receive in total?"

11 Have you seen this document before or some
12 version of it?

13 A I believe so.

14 Q We were talking a while earlier about
15 reductions in budgets impacted Apex providers. Does
16 this document capture the final reductions that were
17 made for Apex providers for FY21?

18 A I don't remember the final amount.

19 Q Where would that -- where would those
20 final amounts be reflected, in what document?

21 A I think that would be a question for our
22 budget office.

23 Q Did you have any role in making the
24 recommendation, the specific budget recommendations
25 for each of the Apex providers on this list?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

215

1 A I contributed to across the board
2 suggestions.

3 Q And what were the factors you were
4 considering when making those recommendations and
5 suggestions?

6 A Looking at the entire program and
7 participating as one of many offices, and
8 prioritizing, there were a lot of discussions going
9 on and a lot of numbers being thrown around in terms
10 of where to cut. Things were put on the table,
11 thing were taken off the table.

12 This 40 percent reduction -- there's an
13 element to -- there's a billing element to Apex.
14 The best practices nationally that we adopted and
15 implemented says that if the funding for the program
16 was cut, it supports portions of salary and portions
17 of administrative costs. It covers the Tier 1,
18 because those services are not billable in any form.
19 Tier 2 are -- some -- those services are billable.

20 And so we were determining calculations of
21 where -- how could we cut funding and increase the
22 productivity requirements but not totally lose the
23 program. Would it be able to sustain and in what
24 form given the budget reduction mandate.

25 Apex is a service that has a billable

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

216

1 component that other programs didn't necessarily
2 have.

3 Q And just to make sure I understand, the
4 billable component is a expectation that Apex
5 providers are going to bill a third-party provider
6 source for a certain amount of the services they
7 provide?

8 A For the sustainability of the program,
9 yes.

10 Q And what is the benchmark that is set by
11 DBHDD?

12 A Is it not set by us. National best
13 practices suggests that if a program is able to
14 cover around a 60 percent threshold, then that
15 position becomes self-sustainable, which then would
16 free up dollars to reinvest in other additional --
17 bring on additional staff or adding additional
18 schools, that sort of thing.

19 And so at 40 percent, not remembering
20 exactly the discussion, that would have given us a
21 window of somewhere between 40 percent and 60
22 percent.

23 Q And do you have a sense of how many
24 existing Apex providers are meeting or exceeding
25 that 60 percent threshold currently?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
217

1 A Not off the top of my head, no.

2 Q Where would you go for that information?

3 A It is tracked in monthly expenditure
4 reports that are submitted to my program team, and I
5 think also our budget office has access to that.

6 Q I'd like to shift gears. We're kind of in
7 our last stretch here, so we're close.

8 (WHEREUPON, Plaintiff's Exhibit-29 was
9 marked for identification.)

10 BY MR. HOLKINS:

11 Q You've just been handed what's been marked
12 Exhibit 29.

13 MR. HOLKINS: For the record, this is
14 GA00581815.

15 BY MR. HOLKINS:

16 Q Please take a moment to review the
17 document.

18 (Witness reviews exhibit.)

19 A I reviewed the document.

20 Q Thank you very much.

21 So this is an email exchange between you
22 and Nakeba Rahming, I believe it's pronounced, from
23 2016.

24 At the time of this exchange, do you know
25 what Nakeba Rahming -- what her role was?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

218

1 A According to this document, it says
2 program manager. That aligns with my recollection.
3 Program manager of the GNETS statewide.

4 Statewide program manager of the GNETS
5 program.

6 Q Okay. That's reflected on Page 2 of the
7 document in her email from May 26, 2016, correct?

8 A Correct.

9 Q How would you describe the role of program
10 manager for GNETS?

11 A To provide -- or at least my experience,
12 to look for and provide training opportunities for
13 staff of the network; to, I guess, advocate for an
14 increased budget for GNETS program, or protect the
15 existing budget, advocate for the protection of the
16 existing budget.

17 I'll pause right there.

18 So I will say training, funding.

19 Q Just to be clear, this is a role within
20 the Georgia Department of Education, correct?

21 A Correct.

22 Q Does the GNETS program manager have the
23 ability to make or implement policy decisions with
24 respect to the GNETS program?

25 A I don't know.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

219

1 MR. PICO PRATS: Objection.

2 Q I'm sorry? You can answer.

3 MR. PICO PRATS: You can answer.

4 A I don't know.

5 Q I first want to stick with Ms. Rahming's
6 email on May 26, 2016, where she writes: "I am
7 working on a trauma informed care service delivery
8 model for GNETS. I wanted do know if DBHDD has been
9 doing any work in this area and if so can we
10 collaborate on things related to it."

11 What's your understanding of a trauma
12 informed service -- excuse me -- a trauma informed
13 care service delivery model?

14 A I'm generally familiar with the concept
15 behind the programming. It is -- it's consistent
16 with resiliency -- resiliency and recovery program
17 in terms of not asking recipients what's wrong with
18 you, but what happened to you, to try to get at the
19 trauma that is driving whatever the behaviors are.

20 Q And since this email in 2016, has DBHDD
21 provided any guidance, training, assistance, to the
22 GNETS program in implementing a trauma informed care
23 service delivery model?

24 A Not that I'm aware of.

25 Q I'd like to go to the first email in the

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
220

1 chain. Well, at least really the last email. The
2 first email appearing on the document, which is on
3 Page 1, is your email from May 27, 2016, to Nakeba
4 Rahming.

5 First off, I recognize this, if I'm not
6 mistaken, is a few months after you joined OCYF; is
7 that correct?

8 A That's correct.

9 Q You write in the second paragraph:
10 "Honestly, I know very little about GNETS."

11 Do you see that text?

12 A Yes.

13 Q Do you feel like now, years later, you
14 know much more about GNETS than you did then?

15 A I do not.

16 So I know more than I did then, but I
17 don't know much more, to use your language.

18 Q You view it as outside of the scope of
19 your work or responsibility to know more about
20 GNETS?

21 A Please repeat the question.

22 Q Do you think it is outside the scope of
23 your role to know more about GNETS?

24 A I would say no.

25 Q It is within the scope of your work or

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
221

1 it's not? I'm sorry.

2 A I actually have general familiarness with
3 GNETS program.

4 I think that I do, along with many other
5 programs offered by, you know, the child service
6 agencies.

7 Q And what do you mean by general
8 familiarity?

9 A There are, there are a number of child
10 serving state agencies, and a number of them have
11 programs. Some I'm more familiar with than others,
12 but as a part of my scope of responsibility I think
13 it's helpful to have some context about programs
14 offered by child service agencies across the state.

15 I wouldn't have the wherewithal, the
16 bandwidth to have -- you know, be extensively
17 familiar with everything.

18 Q Do you view it as within the scope of your
19 responsibility to know what behavioral health
20 services are provided to GNETS students?

21 A I do not.

22 Q Do you view it as within the scope of your
23 responsibility to know whether Apex services are
24 effectively diverting children from placement in
25 GNETS?

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
222

1 MR. PICO PRATS: Objection.

2 A Restate the question.

3 Q Do you think it's within the scope of your
4 responsibility in your current role to know whether
5 Apex services are effectively diverting children
6 from placement in GNETS?

7 MR. PICO PRATS: Same objection.

8 A I'm not sure, honestly.

9 It would depend on if GNETS is rated as a
10 Tier 3 level of care within the tier, and if a
11 student that was in those other tiers receive
12 services upon -- under Apex, and that helps to
13 stabilize those behaviors that would prevent them
14 going to that next tier, if that was GNETS Tier 3,
15 then, yes, I could see an application there.

16 And if there was a GNETS program within an
17 Apex school and one of the students, GNETS students
18 was enrolled in the Apex program and they were in
19 Tier 3, but by way of receiving those services they
20 didn't go on to a CSU, or PRTF, I can see an
21 application there, but it's not a straight answer I
22 think in the way that you asked the question.

23 One additional point. It wouldn't be -- I
24 wouldn't -- I don't think we would ask the question
25 about GNETS specifically. It would remain anchored

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
223

1 to the tier model. So Tier 1, Tier 2, Tier 3.

2 Q Have you made any assessment or formed any
3 opinion as to whether or not GNETS is effectively a
4 Tier 3 provider in the Apex model?

5 MR. PICO PRATS: Objection.

6 A I have not.

7 Q With apologies for belaboring this point,
8 I want to try once more, if that's all right.

9 So under what circumstances would you view
10 it as within the scope of your responsibility to
11 know whether Apex was helping children avoid
12 placement in a GNETS facility?

13 MR. PICO PRATS: Objection.

14 A Please restate the question.

15 Q Under what circumstances would you view it
16 as within the scope of your responsibility to know
17 whether Apex was helping children avoid placement in
18 a GNETS facility?

19 MR. PICO PRATS: Same objection.

20 A I'm not sure I know how to answer that
21 question.

22 It would remain Tier 2, the levels of
23 care.

24 In the applicability in this case to GNETS
25 is because it's school-related programming, and Apex

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

224

1 is a school-based program, meaning we fund to place
2 providers inside a school setting.

3 We don't -- we spend a lot of time focused
4 on the programs that we are supporting with DBHDD
5 funding. We may have -- we may come in contact or
6 have some awareness of other programs offered, but
7 we don't, we don't spend a lot of time -- I
8 personally don't spend a lot of time -- I don't have
9 enough time in the day -- to familiarize myself with
10 the number of programs being offered throughout the
11 State.

12 The reason I'm familiar with Apex is
13 because of the tier model. And so we rank anchor to
14 the tiers, Tier 1, Tier 2, Tier 3.

15 Q Does your staff provide any training
16 directly to GNETS facilities?

17 A One staff member -- so let me back up.

18 A couple years back, when Nakeba was still
19 in place -- I think one of the emails referenced
20 it -- she invited me to come to one of their
21 statewide trainings. I went and I provided
22 PowerPoint presentation on services that the office,
23 DBHDD, my office, support.

24 More recently, within the last two years
25 or so, my staff member Tricia Mills made a

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
225

1 presentation remotely on IC3 to the network.

2 Those are the only two instances that I
3 remember and am aware of.

4 (Whereupon, Plaintiff's Exhibit-30 was
5 marked for identification.)

6 BY MR. HOLKINS:

7 Q You've just been handed what's been marked
8 Exhibit 30.

9 MR. HOLKINS: For the record, this is
10 GA01749504.

11 BY MR. HOLKINS:

12 Q I want to just direct you to Page 3 of the
13 document, the title page for the presentation, which
14 identifies "Trisha Mills, MA, CADC II, GNets
15 Director Meeting, October 22, 2019."

16 And above that, "Intensive Customized Care
17 Coordination - IC3."

18 Is this the presentation you were
19 referencing?

20 A Yes.

21 MR. HOLKINS: Let's take a few minute
22 break then it will just be one last I think
23 short round of questions and we'll be done.

24 Thank you.

25 THE VIDEOGRAPHER: Off the record at 6:23

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
226

1 p.m.

2 (A recess was taken.)

3 THE VIDEOGRAPHER: Back on the record at
4 6:29 p.m.

5 BY MR. HOLKINS:

6 Q Mr. McKay, we spoke a little bit back
7 about PBIS. I just have one follow-up question for
8 you, which is, can, to your knowledge, the
9 Department of Education -- the Georgia Department of
10 Education mandate its schools implement PBIS?

11 A To my understanding, they cannot.

12 Q Why not?

13 A To my understanding, school districts have
14 local control.

15 (WHEREUPON, Plaintiff's Exhibit-31 was
16 marked for identification.)

17 BY MR. HOLKINS:

18 Q Mr. McKay, you've just been handed what's
19 been marked Exhibit 31.

20 MR. HOLKINS: For the record, this is
21 GA00129622.

22 BY MR. HOLKINS:

23 Q Please take a moment to familiarize
24 yourself with the document and let me know when
25 you're finished.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
227

1 (Witness reviews exhibit.)

2 A I've reviewed the document.

3 Q Thank you. This is an email exchange
4 involving yourself, Danielle Jones, and Layla
5 Fitzgerald, from 2020.

6 I first want to ask you about the subject
7 line: MHTTC Info.

8 What does MHTTC stand for?

9 A I don't recall exactly. The first two
10 letters are Mental Health.

11 It is -- but I can share what it is. I
12 don't remember exactly what it stands for.

13 Around this time -- SAMHSA over the years
14 has funded various technical assistance
15 initiatives -- TA, technical assistance
16 initiatives -- and the most recent iteration of
17 their TA nationally they created particular centers,
18 standard core system centers.

19 And the MHTCC focuses on school health,
20 school health and school-based health.

21 This was in a -- I think this relates to
22 an event, a SAMHSA event, that we were asked to
23 participate in that was being hosted locally here in
24 the State of Georgia.

25 Q And you where being asked -- looking to

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
228

1 Layla Fitzgerald's email, starting on Page 3, from
2 January 29, 2020, if I'm not mistaken, you were
3 being asked to provide a five to seven minute
4 presentation with an update on System of Care work;
5 is that correct?

6 A I can't say with certainty. According to
7 this chain, it looks like that.

8 Q I want to direct your attention to the
9 text on the final page of the email, under "Original
10 Goals - October 9, 2019 (original site visit date)."

11 Could you describe what these goals are?

12 A I don't remember where these goals came
13 from.

14 Q Was it in connection with your work on
15 implementing the System of Care framework?

16 A I think there's some relation, but I don't
17 think we were the driver of these.

18 They look somewhat familiar, but I'm not
19 exactly sure where they were generated.

20 Possibility could be -- so, again, this
21 was SAMHSA driven lay of work, and I believe there
22 was an opportunity for DBHDD to participate formally
23 in a SAMHSA initiative related to school-based
24 health, but we didn't have the bandwidth.

25 At the same time, SAMHSA had reached out

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
229

1 to the Department of Education, but because of our
2 regular communication SAMHSA had not told either of
3 us they had reached out to the various agencies. We
4 said, hey, SAMHSA has reached out. We don't have
5 the bandwidth to do this. Have you thought about
6 this?

7 And DOE said, oh, they reached out to us,
8 too, we don't want to miss out on this opportunity,
9 we're challenged.

10 So we agreed to follow DOE's lead to
11 provide support, and then whatever that
12 documentation was, they have been generated as a
13 part of this.

14 But I don't think this is Apex specific or
15 System of Care specific, just a reference to System
16 of Care.

17 Q Specifically, Goal No. 2: "The State of
18 Georgia will develop a comprehensive data sharing
19 agreement to ensure appropriate evaluation of mental
20 health services in schools."

21 Is there any active effort to do that?

22 A It is that similar conversation. I think
23 this aligns with that similar conversation that we
24 had specific to Apex in terms of creating an
25 automated opportunity for data sharing.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

230

1 Q With DOE, correct?

2 A Yes.

3 Q Which is stalled, if I'm not mistaken,
4 correct?

5 A Correct.

6 Q Are you able to describe the status, if
7 relevant, of the first goal, "The State of Georgia
8 will gain information regarding gaps in service and
9 will identify steps to fill gaps"?

10 A I'm not.

11 Honestly, when this meeting occurred, I
12 had been it out of the office working but out of the
13 office physically because I had broken my foot, and
14 there were some questions as to if I would be able
15 to physically attend this meeting.

16 There have been a number of meetings over
17 the years. I have participated early on as my
18 schedule would allow, but I haven't participated in
19 quite a while. And I don't remember any references
20 by the team, Layla or Danielle specifically, to the
21 MHTTC work.

22 Q Are you familiar with Clara Keith?

23 A I know the name.

24 Q Who is Clara Keith?

25 A She was somebody that had an office at

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

231

1 DBHDD, that I met a couple of times.

2 Q What was her -- I'm sorry. Go ahead.

3 A Go ahead.

4 Q What was her role at DBHDD at the time?

5 A I think it was GNETS related but I don't
6 know specifically.

7 Q What was the extent of your coordination
8 with Ms. Keith when she was in that role?

9 A Early on, when the standing DBHDD GNETS
10 leadership meetings occurred, Clara was present in
11 those meetings. You know, many years ago when I
12 first started participating.

13 But over time -- maybe she participated in
14 two meetings that I participated in, but then I
15 didn't see her again after that, and I haven't seen
16 her for many years.

17 Q Is there another individual in that role
18 now in DBHDD?

19 A Not that I'm aware of.

20 Q Just a few more questions and we're going
21 to be done. You can set that aside.

22 Mr. McKay, without revealing any
23 information you may have shared with your counsel, I
24 would like to ask about your preparation -- your
25 preparation for this deposition.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

232

1 What did you do to prepare for this
2 deposition?

3 A Okay. Our Legal Department would pass
4 along the interrogatories, I guess a request for
5 production, any statements that I needed to -- any
6 attestations that I needed to sign.

7 I would review those, answer what I could,
8 but mostly depending upon the Center of Excellence
9 to answer the questions.

10 Q I'm sorry. What questions did you depend
11 on the Center of Excellence to answer?

12 A I don't remember specifically, but the
13 ones that they would have had information that they
14 would be responsive to those questions.

15 Q And this is in regards to responding to
16 the United States interrogatories; is that correct?

17 A Correct. So if a question asked what
18 schools, whatever, something like that, I would say
19 DOE, can you provide the school list from this time
20 period to this time period.

21 Q Did you independently verify the
22 information that the COE provided to you in
23 responding to interrogatories?

24 A I, I -- it was uploaded to a particular
25 location. I did not verify what was uploaded to

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

233

1 that particular location.

2 Q And in preparing for this specific
3 deposition, not responding to interrogatories but
4 preparing for this deposition, did you review any
5 documents?

6 A I reviewed the document that said I needed
7 to be here today.

8 Q Anything else?

9 A No.

10 Q Did you meet with counsel?

11 A Yes.

12 Q Who specifically did you meet with?

13 A With Javier.

14 Q In preparing for this deposition, did you
15 discuss your testimony with anyone other than your
16 counsel?

17 A Not my prepared testimony, no. Other than
18 to tell people that I would not be available today
19 because I would be participating in a deposition.

20 MR. HOLKINS: Mr. McKay, I want to thank
21 you for your time and for your patience, and
22 it's been many hours. We are grateful for your
23 time and I know you've got many things to do.

24 So we appreciate it. Have a good evening.

25 THE WITNESS: Thank you. Nice to meet

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

234

1 you.

2 MR. HOLKINS: Thank you.

3 THE VIDEOGRAPHER: We're off the record at
4 6:40 p.m.

5 (Whereupon, the deposition concluded at
6 6:40 p.m.)

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DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

235

1 C E R T I F I C A T E

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3 STATE OF GEORGIA:

4 FULTON COUNTY:

5

6 I hereby certify that the foregoing

7 transcript of DANTE T. MCKAY was taken down, as

8 stated in the caption, and the questions and answers

9 thereto were reduced by stenographic means under my

10 direction;

11 That the foregoing Pages 1 through

12 234 represent a true and correct transcript of

13 the evidence given upon said hearing;

14 And I further certify that I am not of kin

15 or counsel to the parties in this case; am not in

16 the regular employ of counsel for any of said

17 parties; nor am I in anywise interested in the

18 result of said case.

19

20 IN WITNESS WHEREOF, I have hereunto

21 subscribed my name this 4th day of February, 2022.

22 *Wanda L. Robinson*

23

24 _____

25 Wanda L. Robinson, CRR, CCR No. B-1973
My Commission Expires 10/11/2023

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022
236

1 D I S C L O S U R E

2 STATE OF GEORGIA) VIDEOTAPE DEPOSITION OF
3 FULTON COUNTY) DANTE T. MCKAY - 01/27/22
4 Pursuant to Article 10.B of the Rules and
5 Regulations of the Board of Court Reporting
6 of the Judicial Council of Georgia, I make the
7 following disclosure:

8 I am a Georgia certified court reporter.

9 I am here as a representative of Esquire Deposition
10 Solutions, LLC, and Esquire Deposition Solutions,
11 LLC was contacted by the offices of U.S. Attorney's
12 Office to provide court reporter services for this
13 deposition. Esquire Deposition Solutions, LLC will
14 not be taking this deposition under any contract
15 that is prohibited by O.C.G.A. 9-11-28 (c).

16 Esquire Deposition Solutions, LLC has no
17 contract/agreement to provide court reporter
18 services with any party to the case, or any counsel
19 in the case, or any reporter or reporting agency
20 from whom a referral might have been made to cover
this deposition.

21 Esquire Deposition Solutions, LLC will
22 charge the usual and customary rates to all parties
23 in the case, and a financial discount will not be
24 given to any party to this litigation.

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

237

1 ERRATA SHEET FOR THE TRANSCRIPT OF:

2 Deponent Name: DANTE T. MCKAY

3 Case Caption: United States of America vs. State
4 of Georgia

5 Case No. : 1:16-cv-03088-ELR

6 I do hereby certify that I have read all
7 questions propounded to me and all answers given by
me on the 27th day of January 2022, taken before
8 Wanda L. Robinson, and that:

9 _____ 1) There are no changes noted.

10 _____ 2) The following changes are noted:

11 Pursuant to state rules of Civil Procedure
12 and/or the Official Code of Georgia Annotated
13 9-11-30(e), both of which read in part: Any changes
14 in form or substance which you desire to make shall
be entered upon the deposition with a statement of
the reason given for making them.15 Accordingly, to assist you in effecting
16 corrections, please use the form below:

17 CORRECTIONS:

18 Page	Line	Change	Reason For Change
19			
20			
21			
22			
23			
24			
25			

DANTE T. MCKAY
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

238

1 CERTIFICATE OF DEPONENT

2

3 I hereby certify that I have read and examined

4 the foregoing transcript, and the same is a true and

5 accurate record of the testimony given by me. Any

6 additions or corrections that I feel are necessary,

7 I will attach on a separate sheet of paper to the

8 original transcript.

9

10 _____

11 Signature of Deponent

12

13 I hereby certify that the individual

14 representing himself/herself to be the above-named

15 individual, appeared before me this _____ day of

16 _____, 2022, and executed the above

17 certificate in my presence.

18

19 _____

20

21 NOTARY PUBLIC

22

23 MY COMMISSION EXPIRES:

24

25